

‘A White Rag Burning’:
Irish women who committed arson
in order to be transported to Van
Diemen’s Land

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for the degree of Doctor of Philosophy
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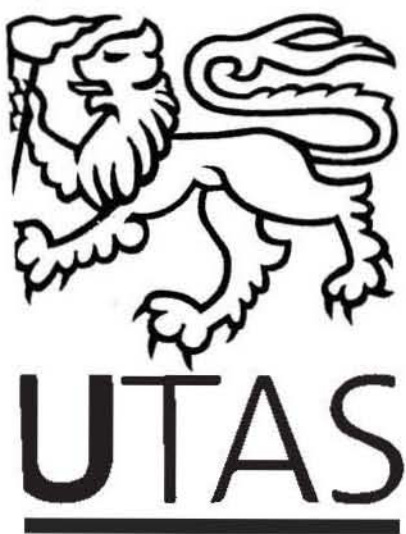
Dianne Snowden
Dianne Maree Snowden

This thesis contains no material which has been accepted for the award of any other degree in any tertiary institution. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due acknowledgement is made in the text of the thesis.

A handwritten signature in cursive script, reading "Dianne Snowden".

Dianne Maree Snowden

To my family,
for understanding



Abstract

Between 1841 and 1853, 248 women were transported from Ireland to Van Diemen's Land for arson. Of this number, there is evidence that at least seventy-nine women in the Famine and post-Famine period committed arson in order to be transported. This group of deliberate offenders challenges traditional notions of convict historiography and raises questions about the fundamental nature of criminality and transportation. This thesis argues that the women, as active agents, were using transportation as a form of emigration. For many poor women in Famine and post-Famine Ireland, emigration was not an option because they did not meet selection criteria for assisted emigration schemes, or could not afford the costs associated with emigration. Arson was a perfect crime for those who wished to be caught. It was visible, immediate, and effective. It was serious enough to warrant transportation. By the early 1850s, it was entrenched as a means of engineering transportation among women, a fact recognised by the Irish courts and frequently commented upon in Irish newspapers. There is no evidence that the deliberate arsonists were social or political protesters. For them, arson was a means to an end, not a political statement.

More than passive economic victims, the deliberate arsonists were marginalised women actively seeking to change their circumstances. Initially, this was from the dislocation and chaos of Famine and post-Famine Ireland but the process continued in Van Diemen's Land. A major focus of this thesis is the colonial experience of the deliberate arsonists, tracing what happened to them and examining whether there was evidence that they tried to improve their position in

the colony, especially when they were free. This thesis argues that, by using a number of survival strategies, the women's attempts to seek control over their lives continued.

This thesis is presented in two parts. The first contains an historiographical survey, an explanation of the methodology, the Irish background to the phenomenon as well as a profile of the deliberate arsonists. The second part analyses social and economic outcomes for the women in Van Diemen's Land: marriage, economic survival, and death. Research has been primarily based on convict records, newspaper reports of trials, civil registration records, colonial newspapers, colonial court records, and family papers. Detailed biographies of the seventy-nine deliberate arsonists have been compiled as Volume Two of the thesis.

This thesis adds to the body of knowledge about the female convict experience, generally, and the deliberate arsonists, specifically. As far as I am aware, this is the first time that a comprehensive study of a group of convict women, grouped by crime, has been carried out. It is also the first time that a study has looked specifically and extensively at 'courting transportation', at transportation as emigration, and, in this respect, it has only touched the tip of an iceberg. The phenomenon of deliberately courting transportation was not limited to the female arsonists or post-Famine Ireland, although it was a period when it was undeniably most effectively and publicly used. Transportation was not regarded as punishment by impoverished, marginalised women in Famine and post-Famine

Ireland but a way of improving their situation. This thesis is also the first time that the female post-sentence convict experience has been looked at in detail in a Tasmanian context, with a focus on individuals, and using family history techniques. It concludes that, despite economic, political and social constraints imposed on them, in Ireland and Van Diemen's Land, the deliberate arsonists exercised agency over their lives by using a number of survival strategies.

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Abbreviations

AJCP	Australian Joint Copying Project
ANU	Australian National University
<i>ADB</i>	<i>Australian Dictionary of Biography</i>
AOT	Archives Office of Tasmania
BIHS	Bruny Island Historical Society
BPP	British Parliamentary Papers
Co.	County
CO	Colonial Office
CON	Convict
CRF	Convict Reference Files
CSO	Chief Secretary's Office
CT	<i>Colonial Times</i>
GO	Governor's Office
GPO	Government Prisons Office [Ireland]
GST	Genealogical Society of Tasmania
HAP	House of Assembly Papers
HSD	Health Services Department
HTA	<i>Hobart Town Advertiser</i>
HTC	<i>Hobart Town Courier</i>
HTG	<i>Hobart Town Gazette</i>
IGI	<i>International Genealogical Index</i>
JRAHS	<i>Journal of the Royal Australian Historical Society</i>
LC	Lower Court
MB	Marine Board
MM	Miscellaneous Microfilm
NAI	National Archives of Ireland
NSW	New South Wales
PPH	Probationary Pass Holder
PRO	Public Record Office
RGD	Registrar-General's Department
SRCT	Southern Regional Cemetery Trust
SWD	Social Welfare Department
THRAPP	<i>Tasmanian Historical Research Association Papers & Proceedings</i>
TFHS	Tasmanian Family History Society
TPI	Tasmanian Pioneer Index 1803-1899
TR	Transportation Registers
TAS	Tasmania
TAMIOT	<i>Tombstone and Memorial Inscriptions of Tasmania</i>
UNE	University of New England
VIC	Victoria
WA	Western Australia

Conversions

Measurement

Currency

12d (12 pence)

1s (1 shilling)

20s (20 shillings)

£1 (1 pound) = \$2

21s

1 guinea

Length

1 inch =

25.4 millimetres

12 inches

1 foot

3 feet

1 yard

1 mile = 1.61 kilometres

Area

4840 square yards

1 acre = 405 hectares

640 acres

1 square mile

Prologue

The Wexford Independent 6 March 1850 p.2 col.6:

(before Judge Ball)

Jane Allen was given in charge of feloniously and maliciously attempting to set fire to the Enniscorthy poorhouse.

Mr. Scott, Q.C., said it was one of those cases where a person commits a crime for the purpose of being transported.

Anne Lacey sworn and examined by Mr. Scott – knows the prisoner; was in the Enniscorthy poor house last July; had the superintendence of the ward in which the prisoner slept; saw the bed on fire and slapped it with her hand, and put it out; found a piece of rag, and the foot of an old stocking in the bed; it was not her own bed; it was between nine and ten o'clock in the day, the bed was set on fire; the ticken was burned, but not the straw; went out and told the Mistress; did not see the prisoner at the time.

Ellen Murray sworn and examined by Mr. Sausse – Knew the prisoner; remembers the time the bed in the poor-house was set on fire; saw the prisoner that morning at the yard-gate with a light in her hand, and half an hour before the bed was set on fire; she said she would do something to be transported, and be sent with her comrade girls; her apron was smoking; she said if the poorhouse was on fire they would have great diversion; heard her speak of it often; saw the rag on fire; heard her say to Margaret Doyle she would set fire to the house; or to the clothes in the yard; it was after she told her she would do it; she had the clothes in her charge; said she, if you don't believe me there is the apron; I tore a bit off it, shewing her the apron, it was a white rag she saw on fire with the prisoner at the yard gate.

To prisoner- Did not give her the fire to do it, or know of it till prisoner told her.

Margaret Doyle examined by Mr. Scott – Was in the Enniscorthy poorhouse when the bed was set on fire; knows the prisoner; saw her that morning in the yard about 9 o'clock; saw fire in her hands, a white rag burning; it was in the upper end of the yard near the room where prisoner slept; sometime after she saw the white rag with her, she told her to tell her Mistress that she was going to set the house on fire, and said that if she would not tell, she would do it; the reason she said she would like to go to her comrades in Wexford jail, and to be transported with them, their names were Maria Cosker, and Sarah Campbell, they were transported; she saw the bed, it was made with straw covered with linen; saw a part of the linen burned, but not any of the straw; it was on the evening before the fire took place, that she said she would set the house on fire to go to her comrade girls.

Cross-examined by prisoner – Never gave her fire; asked to set fire to the house

The prisoner did not call any witness.

The Judge briefly recapitulated the evidence, and the jury after a few minutes consultation returned a verdict of guilty.

His Lordship said, in passing sentence on the prisoner, he was informed that the prisoner had been as many as eight times convicted of different crimes before, and said he felt an unwillingness to sentence those to transportation who had committed crimes for that purpose; but in the present case he must do so; he then sentenced her to Ten Years' transportation.

Introduction

Jane Allen, red-haired and freckled, was one of seventy-nine women transported from Ireland to Van Diemen's Land for arson who admitted to deliberately offending in order to be transported. An eighteen-year-old housemaid, with no living relatives, she had been 'on the town' for three years when she was charged in Wexford with burning the Enniscorthy poorhouse. She allegedly stated that she set the poorhouse on fire because she wanted to join her comrades in Wexford gaol and be transported with them.¹ In sentencing her, the judge commented that the number of her previous crimes left him with no option but to transport her, despite his reluctance to transport deliberate arsonists. Jane Allen was transported for ten years, arriving in Van Diemen's Land on the *Blackfriar* in May 1851. She died in childbirth, in the Female Factory in Launceston in August 1852, shortly after giving birth to a stillborn child.²

In all, 248 women were transported from Ireland to Van Diemen's Land for arson.³ According to John Williams' calculations, the female arsonists comprised 7 per cent of the total number of Irish female convicts tried in Ireland and transported to Van Diemen's Land.⁴ Arson accounted for only 1 per cent of

¹ *The Wexford Independent* 6 March 1850 p.2 col.6.

² AOT, CON 41/30, CON 15/7 and CON 19/9 Jane Allen *Blackfriar* 1851 No.272; AOT, RGD 35/17 1852 Launceston No.650: Jane 'Allan'.

³ This is the number that actually embarked; more were sentenced to transportation: cf. John Williams, *Ordered to the Island Irish Convicts and Van Diemen's Land*, Sydney, 1994, p.72. Williams calculated that 242 women were transported for arson. See Appendix One: Irish Female Arsonists and Appendix Two: Irish Female Arsonists Left Behind.

⁴ Williams, *Ordered to the Island*, p.72. Williams cites L. L. Robson, *The Convict Settlers of Australia* Melbourne, 1965, p.206, Table 8 (d); in this table, however, Robson used the more general category of 'wilful destruction' and makes no specific mention of arson.

British men and women transported to the Australian colonies, and 1 per cent of Irish male transportees.⁵ Only forty-nine Irish males were transported to Van Diemen's Land for arson.⁶ The numbers of women transported from Ireland rose significantly after the Famine in 1846. Before 1846, arson accounted for only 1 per cent of women tried in Ireland and transported to Van Diemen's Land, comparable to the British figures. This rose to 5 per cent during the Famine, and 14 per cent after 1850.⁷ Numbers peaked in 1850, when 59 female arsonists arrived. As can be seen in Figure 1, significantly more women than men were transported to Van Diemen's Land for arson.

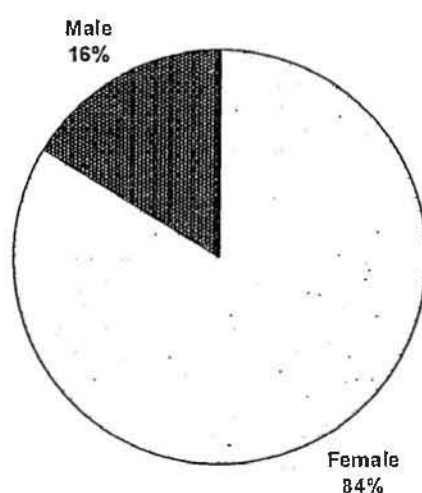


Figure 1: Comparison of male and female arsonists transported to VDL from Ireland [n=297].

⁵ Williams, *Ordered to the Island*, p.72.

⁶ See Appendix One. cf Williams, *Ordered to the Island*, p.72: Williams calculated that 48 men were transported for arson.

⁷ Williams, *Ordered to the Island*, p.72.

Statistically, then, the Irish female arsonists are highly significant and deserve more than the cursory consideration hitherto accorded to them by historians. Even more intriguing is the fact that at least 32 per cent of these women appear to have deliberately committed arson in order to be transported. This group, too, has only been given perfunctory treatment by historians – yet, in many ways, it challenges traditional notions of convict historiography. While the nexus between poverty and crime has been well-established, particularly in an Irish context, the protagonists are most frequently depicted as the victims of economic distress. The deliberate arsonists⁸ fall into this category, but they are more than passive economic victims: they are an example of marginalised women actively seeking to change their circumstances. They were active agents using transportation as a form of emigration. Clearly, the deliberate arsonists raise questions about the fundamental nature of criminality and transportation.

A study of the deliberate arsonists raises four significant and fundamental questions. The first question is simply why so many women committed arson in Famine and post-Famine Ireland. The dislocation, poverty and hardship caused by the Famine and its aftermath have been well-documented. Such economic explanations are true of crime generally and only partly explain the rise in the number of arsonists. To understand the phenomenon, it is necessary to examine the nature of arson, and its conceptualisation as a crime and form of protest.

⁸ The term 'deliberate arsonists' is used throughout this thesis as a shorthand reference to those Irish women transported for arson who admitted to committing arson in order to be transported, as well as those for whom there is strong circumstantial evidence that they committed arson in order to be transported. The wider group of arsonists, for whom there is no evidence that they deliberately committed the crime, are referred to as 'Irish female arsonists'. See 'A Note on Methodology and Classification', p18.

Traditional accounts of arson have focused on the crime as a manifestation of dissent. Yet not all arson was protest. Some arson was clearly criminal. Some was motivated by revenge. In many cases, the categorisation of arson is not clearcut and depends on motive and context.

The second question is why the deliberate arsonists chose to commit arson and not some other crime. In some circumstances, during the 1840s and 1850s in Ireland, arson was a capital offence. Even where life was not threatened, arson could incur a life sentence. It was by no means a petty crime. Yet it was the crime chosen by those who wished to secure transportation. No other crime had so many women claiming that they did it to be transported. Many of the women were arrested, matches in hand, beside the object they had burned, which was often located near the police barracks. Arson was visible, and it was easy to be caught if that was the objective. By the time the last convicts were being transported to Van Diemen's Land, in the early 1850s, the phenomenon of deliberate female arsonists was an established pattern recognised by the Irish courts. Judges commented on the number of arsonists appearing before them, who were using the crime to be transported, but do not appear to have made similar comments about other crimes.

A third question associated with the arsonists is why the women did not simply emigrate, if their aim was to seek a change in their circumstances. In post-Famine Ireland, emigration, particularly of young people, was increasingly part of a life pattern. There is evidence, however, to suggest that for many poor women in post-Famine Ireland, emigration was not an option because they did not meet

selection criteria for assisted emigration schemes, or they could not afford costs associated with emigration. The workhouse, or poorhouse, was pivotal to pauper emigration, and not all women were eligible to be admitted. Some of these women were homeless or wandering women; many had negative experiences and perceptions of workhouses. Workhouses were overcrowded; families were separated, and conditions were appalling. Clearly, for whatever reason, the deliberate arsonists were using transportation as a form of emigration. While no evidence has been found showing that any of the arsonists had been refused assistance to emigrate, there is evidence that the really poor were excluded from emigration schemes, and it is plausible that the arsonists were from that group.

The final question asks what was the colonial experience of the deliberate arsonists. More than passive economic victims, the arsonists were marginalised women actively seeking to improve their circumstances. Initially, this was from the dislocation and chaos of Famine and post-Famine Ireland, but the process continued in Van Diemen's Land. A major focus of this thesis is the colonial experience of the arsonists, tracing what happened to them and examining whether there is evidence that they tried to improve their position in the colony, especially when they were free. This thesis argues that, by using a number of survival strategies, the women's attempts to seek control over their lives continued in Van Diemen's Land.

This final question also raises questions about the relevance and adequacy of traditional historiographical approaches to writing the history of female convicts.

In traditional historiographical approaches, the individual voice and the complexity of female convict lives tend to be lost. Kay Daniels, in *Convict Women*, identified four major and discrete narratives in the debate about the nature and fate of women in colonial society: the female entrepreneur, the convict whore, the happy family woman and the abandoned wife.⁹ She argued that too much time has been spent choosing between these four categories, and suggested that not all women were destined for the single fate indicated by these rigid classifications. Clearly, the categories are inappropriate descriptions for a life characterised by change and complexity.

In 1998, A.G.L. Shaw expressed scepticism about the value of the contribution of many of the books and articles on female convict history.¹⁰ However, Kay Daniels, Deborah Oxley and Kirsty Reid have all carefully examined the development of convict historiography generally, and female convict historiography specifically, outlining significant changes in the debate and indicating that Shaw's view is unwarranted.¹¹ The debate about female convict historiography has been complex and far-reaching.

An important strand of the female convict historiographical discussion has been predicated on the existence of a criminal class, and its corollary, the habitual criminal. Daniels and Reid both suggest that much of the early writing on convict

⁹ Kay Daniels, *Convict Women*, St Leonards, NSW, 1998, p.2.

¹⁰ A.G.L. Shaw, 'The Convict Question, 1966 and 1998', *Tasmanian Historical Studies. Exiles of Empire*, Vol.6, No.2, 1999, p.10. These are published papers from the 1998 annual conference of the Centre for Tasmanian Historical Studies.

¹¹ Daniels, *Convict Women*; Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Melbourne, 1996; Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995.

women was moulded by this belief; this is especially evident in the work of Shaw, Manning Clark and Lloyd Robson.¹² Although Shaw later clarified what he meant by 'criminal class' – that is, that it was not a group of professional criminals who hoped to live exclusively by criminal means but a moral grouping of opportunistic poor people, 'perennially petty thieves'¹³ – his focus on convict background has persisted. More recently, Oxley argued for a reopening of the debate about female convict origins, but on a much broader scale than indicated by a mere quantitative study.¹⁴

A fundamental part of the concern with the origins of convicts – who they were and where they came from – included consideration of whether the female convicts were whores or prostitutes. This stereotype was adopted uncritically, even by feminist historians such as Anne Summers and Miriam Dixon,¹⁵ until questioned by Michael Sturma, in his seminal article, 'Eye of the Beholder'.¹⁶ Sturma argued that prostitution was not synonymous with cohabitation, and that middle-class values had been imposed on established working-class relationship patterns.

¹² For the existence of a criminal class, see A.G.L. Shaw, *Convicts and the Colonies. Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, Melbourne, 1978; L.L. Robson, *The Convict Settlers of Australia: An Enquiry into the Origin and Character of the Convicts Transported to New South Wales and Van Diemen's Land 1787-1852*, Melbourne, 1965; C.M.H. Clark, 'The Origins of the Convicts Transported to Eastern Australia 1787-1852', Parts 1 & 2, *Historical Studies*, Vol. 7, Nos. 26-27, May-November 1956, pp.121-135, 314-327.

¹³ Shaw, 'The Convict Question', p.6.

¹⁴ Oxley, *Convict Maids*, p.3. See also Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, and particularly Stephen Nicholas and Peter R. Shergold, 'Unshackling the Past', pp.3-13, for arguments against the existence of a criminal class.

¹⁵ Anne Summers, *Damned Whores and God's Police: The Colonization of Women in Australia*, Melbourne, 1976; Miriam Dixon, *The Real Matilda. Women and Identity in Australia 1788 to 1975*, Ringwood, 1976.

¹⁶ Michael Sturma, 'Eye of the Beholder: the stereotype of female convicts 1788-1852', *Labour History*, Vol.34, May 1978, pp.3-10.

Sturma's views are evident in Portia Robinson's attempt to portray the convict woman, not as a whore, but as a family woman.¹⁷ Robinson rejected the whore or prostitute stereotype, arguing that it had falsely arisen from Rev. Samuel Marsden's indiscriminate use of language: he labelled a 'concubine' any woman in a relationship who was not legally married by a Church of England clergyman.¹⁸ Common-law marriages were, in fact, the norm for many of these women. According to Robinson, the 'damned whores' stereotype was the product of the behaviour of a minority, a troublesome few; the majority led lives of outward respectability. Although Robinson's argument is blurred somewhat by her insistence on the use of 'colonial women', not just 'convict women,' her argument was picked up by other historians such as Marian Aveling and Monica Perrott. Aveling reinforced the dichotomy of 'refractory prostitute' and 'loyal wife'.¹⁹ Perrott accepted Robinson's claim of the troublesome few: 'The claim that all female convicts were depraved, sexually abandoned women appears to have been based on the reputation of a small number of troublesome debauched women who came to the notice of colonial officials'.²⁰ Reid made the important point that the only difference between Robinson and the contemporaries who originally gave voice to the 'damned whores' stereotype is quantitative: that is, the shift from a majority of 'damned whores' to a minority, the troublesome few.

¹⁷ Portia Robinson, *The Hatch and Brood of Time. A study of the first generation of native-born white Australians 1788-1828*, Melbourne, 1985; Portia Robinson, *The Women of Botany Bay*, Ringwood, revised edition 1993, first published 1988.

¹⁸ Robinson, *Hatch and Brood*, p.17; Robinson, *Botany Bay*, pp.249-254.

¹⁹ Marian Aveling, ' "Bending the Bars": Convict Women and the State', in Kay Saunders and Ray Evans (eds), *Gender Relations in Australia: Domination and Negotiation*, Sydney, 1992, p.156.

²⁰ Monica Perrott, *A Tolerable Good Success. Economic Opportunities for Women in New South Wales 1788-1830*, Sydney, 1983, p.40.

Marriage was unquestionably good and positive; relationships outside marriage were unquestionably negative and bad.²¹ Robinson, however, did acknowledge the legitimacy of common-law marriage. There has been little room for exploration of the idea that a 'prostitute' may be a good partner and mother, or that marriage was not necessarily conducive to healthy relationships and good parenting. The approach has been very much black and white. Richard Davis suggested that measuring the number of convicts who may have been prostitutes or may have been good, family women is less informative than detailed individual study.²² Reid shared this view but went further to say that the focus of the debate itself was the problem.²³

While historians have shown a reluctance to let go of the 'damned whores/good wife' dichotomy, significant breakthroughs have occurred as a result of the debate. Concomitant with the emergence of the convict woman as colonial wife and mother was an augmented feminist position which included the roles of wife and mother. This, in turn, contributed to the growth of the history of marriage and the family, of which two early exponents were Marian Aveling and Patricia Grimshaw.²⁴ Furthermore, this development in the female convict historiographical debate contributed to the repudiation of the stereotype of the

²¹ Reid, 'Work, Sexuality and Resistance', p.34.

²² Richard Davis, 'Victims or Initiators? Three Irish Women Convicts of Van Diemen's Land', in Bob Reece (ed.), *Irish Convict Lives*, Darlinghurst, NSW, 1993, pp.200-230.

²³ Reid, 'Work, Sexuality and Resistance', pp.21-35.

²⁴ Marian Aveling, 'She Only Married to be Free: Or Cleopatra Vindicated', in Norma Grieve and Patricia Grimshaw (eds), *Australian Women: Feminist Perspectives*, Melbourne, 1981, pp.119-133; Patricia Grimshaw, 'Women and the Family in Australian History – A Reply to *The Real Matilda*', *Historical Studies*, Vol.18 (1978-79), pp.412-421. See also Patricia Grimshaw and Graham Willett, 'Women's History and Family History: An Exploration of Colonial Family Structure', in Grieve and Grimshaw (eds), *Australian Women*, pp.134-155.

convict woman as victim, which had been expressed most vividly by Dixon.²⁵ Early responses to Dixon suggested that, at least in some areas of their lives, convict women were active agents rather than passive victims. Some historians argued that in the domain of the family, convict women had some freedom to manoeuvre. Aveling suggested that some women sought marriage because it enabled them to take advantage of certain freedoms.²⁶ Grimshaw argued that Dixon had overestimated the subjugation of colonial women because she had not considered their role in the family.²⁷

Increasingly, there has been recognition that convict women exercised a degree of choice and control over their lives. No longer is the convict woman represented as a passive victim. Monica Perrott's study of convict women in New South Wales to 1830 revealed convict women participating in a wide range of economic activities.²⁸ Katrina Alford, in her economic history, argued that, despite social and economic constraints, the conditions and responses of the lives of colonial women were diverse and varied.²⁹ Other historians explored areas where convict women demonstrated initiative, resourcefulness and agency.³⁰ In her article 'Exercising Agency', Oxley argued convincingly that convict women exercised

²⁵ Dixon, *The Real Matilda*.

²⁶ Aveling, 'Cleopatra Vindicated', pp.119-133.

²⁷ Grimshaw, 'Women and the Family', pp.412-421.

²⁸ Perrott, *A tolerable good success*.

²⁹ Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850*, Melbourne, 1984.

³⁰ See Saunders and Evans (eds), *Gender Relations in Australia*; Marian Aveling, 'Imagining New South Wales as a Gendered Society, 1783-1821', *Australian Historical Studies*, Vol.25, No.98, 1992, pp.1-12.

choice and control in their lives, and were not passive victims.³¹ Davis also addressed the issue of agency, defined in the sense of making choices.³² In a further refinement of the debate, Marilyn Lake argued that the categories of victim and agent were not necessarily exclusive.³³ Daniels, too, extended the debate, suggesting that those historians who have dealt with the agency of convict women have neglected to incorporate 'the micro-environment of the convict experience with the larger world of policy and historic change'.³⁴ She implied that the relationship between the women and 'the system' was not static or rigid, and that the women could have an impact on the system (and vice versa). In a radical change of focus, Joy Damousi in *Depraved and Disorderly* explored the cultural meanings of agency and resistance, and their symbolic representations in convict life.³⁵

Much of the historiography of convict women discounts the complexity of individual convict lives, and differences over time and place. Lyndall Ryan has clearly stated the importance of time and place to the convict experience, arguing that when and where the women were transported were major structural changes which shaped the external realities of convict women's lives.³⁶ She rightly

³¹ Deborah Oxley, 'Exercising Agency', *Labour History*, Vol.65, 1993, pp.192-199. This was in reply to David Kent & Norma Townsend, 'Deborah Oxley's "Female Convicts": An Accurate View of Working-Class Women?', *Labour History*, Vol.65, 1993, pp.179-191.

³² Davis, 'Victims or Initiators?'

³³ Marilyn Lake, 'Convict Women as Objects of Male Vision: An Historiographical Review', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol. 2, No.1, 1988, pp.40-48.

³⁴ Daniels, *Convict Women*, p.47.

³⁵ Joy Damousi, *Depraved and Disorderly. Female Convicts, Sexuality and Gender in Colonial Australia*, Cambridge, 1997.

³⁶ Lyndall Ryan, 'The Governed: Convict women in Tasmania, 1803-1853', *Bulletin of the Centre for Tasmanian Historical Studies* Vol.3, 1990-1991, pp.37-51. See also Lyndall Ryan, 'From Stridency to Silence: The Policing of Convict Women 1803-1853' in Diane Kirkby (ed.), *Sex, Power and Justice*, Melbourne, 1995, pp.70-85.

pointed out that 'Female transportation as a policy and a process not only changed at least three times between 1788 and 1853, but the economic and social conditions which confronted the convict women when they arrived in New South Wales or Tasmania also changed.'³⁷ Daniels, too, explored the implications of the 'Sydney-centred view' of female convict historiography.³⁸ This lack of recognition of differences over time and place continues in recent histories, such as Damousi's *Depraved and Disorderly*, which deals with ideas or representations of convict women.

It is ironic that, although much of the historiography of convict women developed from the question of the origins of convicts, there has been limited detailed non-quantitative examination of the differences between convicts. There has been a tendency to subsume all convicts within general groupings. The Irish convicts, generally, are an exception, and are usually differentiated because of the impact of Ireland's poverty and the Great Famine.³⁹ Consequently, the focus of Irish convict historiography has been whether the Irish convicts were true criminals, political rebels or 'Village Hampdens'.⁴⁰ Williams' study of 14,000 Irish-born

³⁷ Ryan, 'The Governed', p.37.

³⁸ Daniels, *Convict Women*, pp.50-51.

³⁹ See T.J. Kiernan, *Transportation from Ireland to Sydney: 1791-1816*, Canberra, 1954, who suggested that Irish convicts differed from English convicts. See also Oxley, *Convict Maids*, pp.129-145. For the background to Irish transportation, see Bob Reece, *The Origins of Irish Transportation to New South Wales*, Basingstoke, Hampshire and New York, 2001.

⁴⁰ For a discussion of Irish convict historiography, generally, see Bob Reece, 'Irish Convicts and Australian Historians', in Bob Reece (ed.), *Irish Convicts. The Origins of Convicts Transported to Australia*, Dublin, 1989, pp.1-24; Bob Reece, 'Writing about the Irish in Australia' in John O'Brien and Pauric Travers (eds), *The Irish Emigrant Experience in Australia*, Dublin, 1991, pp.226-242; Patrick O'Farrell, 'Writing the History of Irish-Australia' in Oliver MacDonagh and W.F. Mandle (eds), *Ireland and Irish-Australia*, London, 1986, pp.217-228; G.C. Bolton, 'The Irish in Australian Historiography' in Colm Kiernan (ed.) *Australian and Ireland 1788-1988: Bicentenary Essays*, Dublin, 1986, pp.5-19; Richard Davis, ' "Not So Bad as a Bad Marriage". Irish Transportation Policies in the 1840s', *THRAPP*, Vol.47, No.1, March 2000, pp.9-64. The term 'Village Hampden' was first used in Thomas Gray's *Elegy in a Country Churchyard* and was

convicts, for example, analysed the question of whether the Irish transportees were 'Village Hampdens' or hardened criminals, and concluded that those convicted in Ireland were less likely to be habitual criminals.⁴¹ Inevitably, the issue of the morality of Irish convict women was also examined. Williams concluded that they had been treated generously by historians and, generally, did not deserve the good reputation accorded to them.⁴² Williams, significantly, recognised differences within the general grouping of Irish convict women, and studied them, statistically, by place of trial and offence. Davis, in 'Victims or Initiators?', suggested that it is difficult to prove the notion, expressed by Robinson and Williams,⁴³ that Irish convict women were less likely to be hardened criminals or prostitutes than other convict women. As part of his quest to determine an answer to this question, Davis examined three individual cases, and concluded that, as the cases were exceptional, generalisation was impossible.⁴⁴ He did, however, tentatively explore the notion that the women may not have been victims of a patriarchal society, but instead may have maintained a form of 'feminine resistance', concluding that all three did, in fact, try to live their lives as they themselves wished.⁴⁵ In her extensive study of convict women to

adapted to an historical context by J.L. and B. Hammond in *The Village Labourer, 1760-1832*, London, 1913.

⁴¹ John Williams, 'Irish Convicts and Van Diemen's Land', unpublished M.A. Thesis, University of Tasmania, 1972; Williams *Ordered to the Island*. See also John Williams, 'Irish Female Convicts and Tasmania', *Labour History*, No.44, 1983, pp.1-17; John Williams, 'Irish Convicts in Tasmania', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, pp.19-29.

⁴² Williams, *Ordered to the Island*, p.83. In an earlier article, he suggested that Irish convicts were not nearly as depraved as previously thought: see Williams, 'Irish Female Convicts and Tasmania'.

⁴³ Robinson, *Botany Bay*; Williams, 'Irish Female Convicts and Tasmania'. See also Susan R. Allan, 'Irish Convicts – Hampdens or Hardened Criminals? A Review of the Work of Lloyd Robson and John Williams: A Comparative Case Study', *Tasmanian Historical Studies*, Vol.7, No.2, 2001, pp.95-118.

⁴⁴ Davis, 'Victims or Initiators?', pp.200-230.

⁴⁵ Davis, 'Victims or Initiators?', p.227.

New South Wales, Oxley, too, distinguished between those from Ireland and those from England, but with a different focus to earlier historians.⁴⁶

Deirdre Beddoe's study of Welsh convict women followed on from the work of Irish convict historians, in acknowledging there might be significant differences in convict experience depending on where they were tried. Her study examined the circumstances, motives, demographic and occupational features, and voyage experience of convict women tried in Wales.⁴⁷ Increasingly, there have been a number of county and regional convict studies, albeit mostly quantitative.⁴⁸

An important point made by Davis is that the examination of individual lives may help untangle some of the intricacies of female convict historiography.⁴⁹ While his article dealt with only three women, it is significant for the detail that it provides about their lives. The provision of such detail clearly indicates the complexity of individual convict lives. Babette Smith's study of her ancestor, Susannah Watson, provides another example of how the detailed examination of individuals can add to a clearer understanding of the convict experience.⁵⁰ Daniels and Reid both implied that quantification of the convict experience

⁴⁶ Oxley, *Convict Maids*.

⁴⁷ Deirdre Beddoe, *Welsh Convict Women: A study of women transported from Wales to Australia, 1787-1852*, Carmarthen, Wales, 1979.

⁴⁸ See, for example, Sinead Curley, 'Transportation in Clare Before and After the famine' in Reece, *Irish Convicts*, pp.81-113; Brenda Mooney, 'Women Convicts from Wexford and Waterford 1836-40' in Reece, *Irish Convicts* pp.113-127; Shaun Byrne, ' "The Law Must Take its Course": Crime and Transportation in Donegal, 1836-42' in Reece, *Irish Convicts* pp.129-159; Leonora Irwin, 'Women Convicts from Dublin' in Reece, *Irish Convicts*, pp.161-191; Leonard David Johnson, 'An Analysis of the Penal Experiences and Social Outcomes of Salford Hundred Convicts Transported from Britain to Van Diemen's Land between 1828 and 1837', unpublished Ph.D. Thesis, University of Tasmania, 2002.

⁴⁹ Davis, 'Victims or Initiators?', pp.200-230.

⁵⁰ Babette Smith, *A Cargo of Women. Susannah Watson and the Convicts of the Princess Royal*, Sydney, 1988.

provides only part of the picture and that many convicts do not fit into sharply-defined statistical or descriptive categories.⁵¹ As Reid stated: 'People are much more than the abstract composites of the demographic facts and figures relevant to their history'.⁵²

Historiographically, it may be the approach and techniques of the family historian that best allow insight into the complexities of individual lives. By concentrating on the individual, much more is revealed, not only of the life of the individual convict woman, but also the discrepancies and anomalies of the convict system, the multi-layered constraints of colonial Van Diemen's Land and the intricacies of the social system.

There is growing acknowledgement of the role that family history has to play in providing the necessary detail.⁵³ In 1998, Shaw acknowledged that family historians had been able to do what academic historians had not:

What we need generally are personal studies of the type some of our genealogists have been able to carry out – the examination of court records, of local press, of petitions for mitigation of sentence and such similar material.⁵⁴

Shaw's suggestion was not new: as early as 1989, John Spurway, in 'The Growth of Family History in Australia', commented that family historians had received

⁵¹ Daniels, *Convict Women*, p.10; Reid, 'Work, Sexuality and Resistance', pp.37-39.

⁵² Reid, 'Work, Sexuality and Resistance', p.37.

⁵³ See Perry McIntyre and Joan Dwyer, 'Family History, "Professional" History and Academic History: Who Owes What to Whom?', *Descent*, Vol.29, No.2, June 1999, pp.78-81. McIntyre and Dwyer (p.78) mention acknowledgment to family historians from Richard Reid in his work on assisted immigration from Ireland; Norma Townsend and David Kent on machine-breakers; Trevor McClaughlin on Irish orphans; and Grace Karskens in *The Rocks*. More recently, academic historians who acknowledge the contribution of family historians include Lucy Frost and Hamish Maxwell-Stewart (eds), *Chain letters. Narrating convict lives*, Melbourne, 2001, p.3.

⁵⁴ Shaw, 'The Convict Question', p.4.

scant attention from academic historians, despite influencing the direction of contemporary history.⁵⁵

Some of the calls for detailed investigation of convict life have not moved away from the old debate about convict origins: Shaw, for example, in 'The Convict Question: 1966 and 1998' reiterated his earlier call (in *Convicts and the Colonies*) for detailed investigation, but still with a view to find out where the convicts came from and where they were sent, to 'provide a detailed background of the behaviour of the convict labourers in Australia'.⁵⁶ Robinson's detailed study of 5,000 convict women, in *The Women of Botany Bay*, fits Shaw's mould.⁵⁷

As well as the studies of family historians, the search for detailed accounts of convict lives owes something to the work of microhistorians, who attempt to create rich accounts of the lives of obscure individuals and events in order to gain an understanding of larger cultural and social structure.⁵⁸ This approach has led to microhistory being referred to as 'writing history from below', although Jill Lepore suggested that this is too narrow an interpretation of microhistory.⁵⁹ Giovanni Levi suggested that the unifying principle of all microhistorical research is the belief that microscopic observation will reveal factors previously unobserved: 'Phenomena previously considered to be sufficiently described and

⁵⁵ John Spurway, 'The Growth of Family History in Australia', *The Push from the Bush: A Bulletin of Early Social History*, No.27, 1989, pp.53-112.

⁵⁶ Shaw, 'The Convict Question', p.4.

⁵⁷ Robinson, *Botany Bay*.

⁵⁸ For a discussion of microhistory, see Giovanni Levi, 'On Microhistory' in Peter Burke (ed.), *New Perspectives on Historical Writing*, 2nd edition, Cambridge, 2001, pp.97-119; Jill Lepore, 'Historians Who Love Too Much: Reflections on Microhistory and Biography', *The Journal of American History*, June 2001, pp.129-144. See also V.A.C. Gatrell, *The Hanging Tree: Executions and the English People, 1770-1868*, Oxford, 1994, p.448.

⁵⁹ Lepore, 'Historians Who Love Too Much', pp.131-132.

understood assume completely new meanings by altering the scale of observation'.⁶⁰ This approach is often criticized for immersion in small detail at the expense of larger questions and for its readiness to shed a quantitative approach. Critics challenged the claim that the particular and local can serve as microcosms of a larger whole, and that microhistory can reveal the most fundamental aspects of emotion and experience.⁶¹ Levi suggested that the true problem for historians is to succeed in expressing 'the complexity of reality'.⁶²

One implication of this historiographical shift to the detailed study of individuals is a concern with convict life after emancipation. For most historians, a convict's life was a life under sentence. Relatively few historians have considered the possibility of studying the convict experience after sentence. In Daniels' *Convict Women*, the chapter, 'Freedom', is almost a postscript.⁶³ Attempts to include post-sentence convict experience appear most often in studies of single shiploads of convicts, such as Susan Johnson's study of the *Phoebe* in 1844, and, most recently, by David Kent and Norma Townsend in their study of the *Eleanor*.⁶⁴ One of the most effective studies is that by Babette Smith in *A Cargo of Women, Susannah Watson and the Convicts of the Princess Royal*.⁶⁵ Studies of single

⁶⁰ Levi, 'On Microhistory', p.102. See also Edward Muir and Guido Ruggiero (eds), *History From Crime*, Baltimore, 1994, p.viii.

⁶¹ Levi, 'On Microhistory', p.102.

⁶² Levi, 'On Microhistory', p.114.

⁶³ Daniels, *Convict Women*, pp.214-240.

⁶⁴ Susan E. Johnson, 'The Irish convict women of the *Phoebe*', *THRAPP*, Vol.45, No.1, March 1998, pp.44-50; David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London and Ammandale, NSW, 2002. For a smaller group study, see Dianne Snowden, ' "These Unfortunate Females": The Story of Five Women from County Carlow, Ireland', in *Our Heritage in History, Papers of the Sixth Australasian Congress on Genealogy and Heraldry*, Launceston, 1991, pp.332-352. See also Christine Woods, *The Last Ladies. Female Convicts on the Duchess of Northumberland, 1853*, Claremont, Tas., 2004.

⁶⁵ Smith, *A Cargo of Women*.

ships, however, do not allow comparison over time and place. Sandra Champion, in her thesis, a comparison of the Irish convict ships *Greenlaw* in 1844 and *Midlothian* in 1853, moves some way towards this.⁶⁶ Peter MacFie and Nigel Hargraves, in 'The Empire's First Stolen Generation: The First Intake at Point Puer, 1834-39', have also attempted to incorporate the post-convict experience into their study of boy convicts sent to Point Puer.⁶⁷

This historiographical overview demonstrates the inadequacy of traditional approaches in explaining the phenomenon of the Irish female arsonists, and the way that they used transportation as a form of emigration. To ignore the post-sentence life of the arsonist, or any convict woman, is to ignore a major part of her story. A significant part of this research, therefore, concerns the deliberate arsonists once they were technically free: when they were 'on their own hands.' In the case of the convict women, it is this search for detail which adds richness and enables the women to be seen as individuals.⁶⁸ Detailed biographies of seventy-nine Irish arsonists identified as deliberate arsonists have been compiled as Volume Two of this thesis.

⁶⁶ Sandra Champion, 'Prostitutes, hardened offenders or gratuitous immigrants? Irishwomen of the *Greenlaw* and the *Midlothian*', *Tasmanian Historical Studies*, Vol.4, No.2, 1994, pp.20-24; Sandra Champion, ' "Not Hardened Offenders": the women of the *Greenlaw* and the *Midlothian*', unpublished B.A. (Hons.) Thesis, University of Tasmania, 1994.

⁶⁷ Peter MacFie and Nigel Hargraves, 'The Empire's First Stolen Generation: The First Intake at Point Puer, 1834-39', *Tasmanian Historical Studies. Exiles of Empire*, Vol.6, No.2, 1999, pp.129-154.

⁶⁸ On this point, see Tom Dunning, 'Intimate Violence Against Women (Female Children) and Convict Transportation: Scotland and Van Diemen's Land, 1839-1853', unpublished conference paper, June 2004, p.3. See also Muir and Ruggiero (eds), *History From Crime*, p.viii.

A Note on Methodology and Classification

The prime focus of this thesis is a study of those women who engineered their transportation from Ireland by committing arson. There were 248 women transported from Ireland for arson. For the majority of these, no motive can be found. For thirty-nine women, their convict records include a statement which says that the woman admitted to committing the crime in order to be transported. Catherine Sweeney, for example, stated her offence to be burning straw, 'designedly to be sent to Van Diemen's Land'.⁶⁹ For another eleven, evidence about motive has been obtained from newspaper reports of the trial: Margaret Lehane's newspaper trial report (in the name of 'Nehane'), for example, noted:

Margaret Nehane pleaded guilty to setting fire to a hayrick, the property of Colthurst Brabazon Esq. She stated she committed the offence in order to be transported.⁷⁰

These women have been designated 'deliberate arsonists' for the purpose of this study.

Motive is extremely difficult to determine. As well as those women who stated that they offended in order to secure transportation, there is a large group for whom there is strong circumstantial evidence that they also committed arson to be transported. This group includes those who were tried with those who confessed to committing arson in order to be transported; those who immediately turned themselves in to the police; and those whose 'modus operandi' fits a distinctive pattern.

⁶⁹ AOT, CON 41/22 and CON 15/5 Catherine Sweeney *Maria* (2) 1849 No.864.

⁷⁰ *Cork Constitution* 2 July 1850 p.4 col.3.

This second group, of ‘probable deliberate arsonists’, includes those who were tried for the same crime with women who confessed to committing arson in order to be transported. Determining motive is particularly difficult where there is a group tried for the same offence. In some of these cases, only one or two admitted to deliberately committing the crime in order to be transported; the records of the other members simply admit to arson. Two of the earliest arsonists exemplify this. Anne Mahoney and Ann Tuohy were tried together in 1846 for setting fire to a house. While Anne Mahoney’s statement of offence simply records that she was tried for setting fire to a house, Ann Tuohy not only confessed to setting fire to the house but added: ‘I was drunk at the time. I did it to be transported’.⁷¹ The *Limerick & Clare Examiner* reported that the women were to be transported for fifteen years, and when the sentence was announced, Mahoney responded ‘Thank your Lordship’.⁷² This statement might merely indicate politeness or even facetiousness, but might also be a genuine expression of gratitude for a sentence of transportation. Because Mahoney was tried with Ann Tuohy, who confessed, Mahoney has been included as a ‘deliberate arsonist’.

In another instance, Ellen Farrell and Jane Hyland were tried together for arson in Kildare in 1849. Farrell stated her offence to be ‘burning a house for the purpose of being transported’.⁷³ Hyland did not admit to deliberately committing the

⁷¹ AOT, CON 15/4 Anne Mahoney *Arabian* 1847 No.739; Ann Tuohy *Arabian* 1847 No.286. In this case, reports of the trial in the *Freeman’s Journal* and the *Limerick & Clare Examiner* provide no additional information: see *Freeman’s Journal* 27 July 1846 p.4 col.3. Reporting the Limerick Summer Assizes, the paper simply noted that the two were tried for arson of the house of Denis McCarthy, and that they were to be transported for 15 years. The *Limerick & Clare Examiner* 18 July 1846 p.2 col.3 simply noted they were indicted for setting fire to a house, and were found guilty

⁷² *Limerick & Clare Examiner* 25 July 1846 p.2 col.3.

⁷³ AOT, CON 41/20 Ellen Farrell *Lord Auckland* (3) 1849 No.401.

crime in order to be transported,⁷⁴ and no newspaper report of the trial has been located. On the basis of Farrell's confession, however, Hyland has been included in this study as a deliberate arsonist.

In some instances, information about motive is conflicting. Newspaper reports of trials indicated that women committed arson in order to get into gaol, yet their conduct records noted they committed arson in order to be transported. On arrival in Van Diemen's Land, Eliza Morrison stated 'I committed the offence designedly to be transported.'⁷⁵ Yet the newspaper report of the trial, which referred to her as Elizabeth, indicated that the offence was committed to get into gaol:

Elizabeth Morrison and Mary Nowlan were indicted for setting fire to a dwelling house, the property of Margaret Cavanagh, of Ballymore Eustace on the night of the 12th July. Elizabeth Morrison pleaded guilty and Mary Nowlan not guilty ... Constable Cox sworn – ... arrested the prisoners on suspicion, never saw them before, cautioned them; one of them said "there is no use denying it, it was we that did it with matches, and our reason for doing so was to get into gaol", they were strangers.⁷⁶

The prisoners, when sentenced, thanked the magistrate with the words 'long life to your honour'.⁷⁷

In some cases, evidence suggests that arson was committed solely to get into gaol and there is no mention of transportation: Mary Brien, for example, reportedly confessed to the magistrate that: 'she said she only wanted to tell the truth, that she had burned the houses for the purpose of getting into gaol.'⁷⁸ Yet there was no need to commit arson in order to get into gaol. Many minor offences, such as

⁷⁴ AOT, CON 41/20 Jane Hyland *Lord Auckland* (3) 1849 No.749.

⁷⁵ AOT, CON 41/26 and CON 15/6 Eliza Morrison *Earl Grey* 1850 No.1093.

⁷⁶ *The Leinster Express* 21 July 1849 p.2 col.4.

⁷⁷ *The Leinster Express* 21 July 1849 p.2 col.4.

⁷⁸ *Tipperary Free Press* 6 February 1851 p.3 col.1.

breaking windows or larceny, would have secured imprisonment. In January 1852, in Dublin, John Hynes was arrested for deliberately breaking a window; he 'stated quite coolly the reason for doing so was his being hungry at the time.'⁷⁹ In Mayo, in 1851, two offenders pleaded guilty to deliberately committing larceny, in order to be transported; they claimed that if they were not successful, then they 'would again commit some heavier offence to entitle them to transportation'.⁸⁰ Arson was such an offence. Despite this, where there is no additional evidence, those who only confessed to wanting to get into gaol have not been included in this study.

As well as the 'deliberate arsonists' and the 'probable deliberate arsonists', there is a third group for whom the evidence is marginal, but it is quite possible they committed arson in order to be transported. These were mostly homeless or wandering women. This group includes three 'strolling mendicants'⁸¹ and two 'itinerant beggars'.⁸² Those in this marginal group have not been included in the database used for statistical compilations but, where appropriate, have been included in the text of the thesis.⁸³

To summarise, it is difficult to establish exactly how many women transported for arson deliberately offended in order to be transported. The database compiled for

⁷⁹ *Freeman's Journal* 19 January 1852 p.4 col.5. He received 7 days with hard labour.

⁸⁰ *Freeman's Journal* 11 March 1851 p.1 col.4.

⁸¹ *Waterford Mail* 29 March 1849 p.2 col.2, 4 April 1849 p.3 col.1; AOT, CON 41/24 Mary Crowley *Australasia* 1849 No.1030; AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682; AOT, CON 41/24 Bridget Scanlon *Australasia* 1849 No.892.

⁸² *Leinster Express* 16 February 1850 p.2 col.6; *Limerick Reporter & Tipperary Vindicator* 19 February 1850 p.2 col.6; AOT, CON 41/28 Margaret Basley *Duke of Cornwall* 1850 No.1073; AOT, CON 41/28 Eliza Jones *Duke of Cornwall* 1850 No.390.

⁸³ A full list of marginal offenders can be found in Appendix One.

the purpose of this study includes seventy-nine women for whom stated or circumstantial evidence shows that they deliberately committed the crime in order to be transported. As noted earlier, throughout the text, these women are referred to as 'deliberate arsonists' while the wider group is referred to as 'Irish female arsonists'.

A Note on the Sources

The challenge to give voice to the stories of the Irish female arsonists is made difficult by the paucity of resources. Many of the women were illiterate, and none left written records. E.J. Hobsbawm and George Rudé in *Captain Swing*, writing about nineteenth-century English farm labourers, commented that 'Except for their gravestones and their children, they left nothing identifiable behind them',⁸⁴ and, to a large extent, this is also true of the women transported from Ireland for arson. Hobsbawm and Rudé also referred to 'the difficult [task] ... of reconstructing the mental world of an anonymous and undocumented body of people in order to understand their movements, themselves only sketchily documented'.⁸⁵ Edward Muir and Guido Ruggiero also referred to the challenge of giving 'voice to the illiterate'.⁸⁶

The pivotal questions of this thesis are who were the women who committed arson in order to be transported; what motivated them; and what became of them once transported. In the case of the Irish female arsonists, obtaining the detail necessary to answer these questions is fraught with difficulty. As few of the

⁸⁴ E.J. Hobsbawm and George Rudé, *Captain Swing*, London, 1969.

⁸⁵ Hobsbawm and Rudé, *Captain Swing*, p.12.

⁸⁶ Muir and Ruggiero, *History From Crime*, p.viii.

women left written records, this thesis has relied on the vestiges that can be gleaned from official records (including convict, institutional and civil registration records), newspaper reports of trials and family records.⁸⁷ Not only are the records fragmentary, but many have inherent difficulties. Lucy Frost and Hamish Maxwell-Stewart, in *Chain letters*, wrote of the epistemological challenge faced by those recreating convict lives from 'convict words and snippets of story'. They asked:

what meaning can we legitimately attach to the documents (textual or material) which are the source for knowing the past? How can we narrate the lives of people long dead?⁸⁸

Many of the records are complicated by issues of authorship and authenticity, and the context in which the record was created. Nevertheless, by using family history techniques, and in particular family reconstruction, some understanding of the women's lives and experiences can be gained.

Trial records

Few trial records are extant, and none have been located for the deliberate arsonists. However, national and county newspapers in Ireland regularly reported crimes of interest. The coverage of arson cases was sporadic and was influenced by the newsworthiness of other events. In 1848, for example, newspapers were saturated with coverage of the State Trials, and arson cases were rarely mentioned. Some arson reports were detailed; others were confined to sentencing. It was not possible to locate newspaper reports of trials and sentencing for all the

⁸⁷ For an outline of official records held in Ireland, see Rena Lohan, 'Sources in the National Archives for research into the transportation of Irish convicts to Australia (1791-1853)', *Journal of the Irish Society for Archives*, Spring 1996, Vol.3, No.1, pp.13-28. See also Tom Quinlan, 'The Registered Papers of the Chief Secretary's Office', *Journal of the Irish Society for Archives*, Autumn 1994, pp.4-21.

⁸⁸ Frost and Maxwell-Stewart, *Chain letters*, p.2.

women transported for deliberately committing arson but reports for approximately fifty women – just over half – have been located; they have been incorporated into *Volume Two: Biographies*.

Irish Transportation Registers

The registers of local prisons, convict depots and convict prisons contain information, in varying detail, about convicts. These include the register for the Grangegorman female convict depot, which covers the period from 11 July 1840 to 22 December 1853.⁸⁹ The registers contain details of name, age, crime, sentence, location of conviction, marital status, literacy level, trade or occupation, and number of previous convictions, and so duplicate much of the information contained in the colonial convict records.

The Irish Transportation Registers also duplicate much of the information contained in the colonial convict records relating to trial place, offence and sentence, but are useful for clarification of discrepancies, as well as locating those women sentenced to transportation for arson who were discharged or who died before they could be transported. The Irish Transportation Database, the index to the registers, also indicates where petitions exist. Very few petitions survive for the arsonists, and, as could be expected, there are even less for those who stated they deliberately offended in order to be transported. Only one was located for a deliberate arsonist: in 1849, Margaret Byrne had her death sentence, imposed as a result of an arson attempt made by her on an occupied house, commuted to

⁸⁹ Lohan, 'Sources', p.25. Grangegorman was the first exclusively female prison in the British Isles.

transportation for life. In her petition, she stated she had committed the crime in anticipation of a transportation sentence.⁹⁰

Outrage Papers

There is some mention of arson in the Outrage Papers, which form part of the records of the Chief Secretary's Office. Many of these references deal with cases involving Crown Witnesses: those who turned informer for a monetary reward or a paid passage to America.⁹¹ In some instances, however, the Outrage Papers provide significant detail not available elsewhere, as in the case of fifteen-year-old Bridget O'Dea from Galway. Tried in Clare in March 1849 and sentenced to transportation for seven years, she died at Grangegorman Gaol, County Dublin, on 26 July 1849.⁹² The papers include correspondence regarding the circumstances of Bridget O'Dea's crime including letters relating to her statements that she committed arson because she was refused admission to Loughrea, Ennis and Scariff workhouses. The papers relating to the crime committed by arsonists Mary Connors alias Donovan and Ann Donovan – 'two strolling prostitutes from the other side of Cork' – include the detailed testimony of several witnesses to the crime, as well as that of the women themselves.⁹³

⁹⁰ NAI, CRF 1849/B 25; NAI, GPO TR 9 1849 p.7. See also AOT, CON 41/26 and CON 15/6 Margaret Byrne *Earl Grey* 1850 No.1035.

⁹¹ See, for example, NAI, Outrage Papers, Meath 1844 22/13371, which details the burning of Thomas Keiran's house. Thomas Burke accused Thomas Gerraghty and Edward Coyne of the crime; after examination, it was found that Burke had burnt the house and it was determined that the probable motive was to gain a monetary reward as witness against Gerraghty and Coyne, so that he could afford to emigrate to America. For a recent account of Irish Crown witnesses, see Judith Borrick, *Holycross. The story of the O'Mara family*, Indooroopilly, Qld, 2001.

⁹² NAI, Outrage Papers, Clare 1848 5/1116, 40/491-48, 40/764-48, 40/764-48, 41/812-48, 42/276-48.

⁹³ NAI, Outrage Papers, Cork 1849 6/480.

Convict Records

Much of the data has been obtained from records created by the Van Diemen's Land Convict Department, particularly the convict conduct record and the indent. Convict records routinely provide the date and place of trial, offence, sentence, previous convictions, religion, literacy, trade, age, and marital status. Details of colonial offences, including some committed post-emancipation, appear on the convict conduct record.⁹⁴

There has been some debate about the reliability of information supplied by the convicts. Historians have begun to scrutinise the accuracy of the information contained in convict records, particularly in relation to skills and employment history.⁹⁵ Oxley and Reid, however, argued that the data must be reliable: colonial contemporaries believed the data to be reasonably accurate; for it to have been otherwise would have been a massive fraud, which would have undermined the entire structure of the Convict Department's administration of convict labour.⁹⁶ This view was expressed by Lieutenant-Governor Arthur, who commented that 'The man perceives at once that the officer who is examining him does know something of his history; and not being quite conscious how much is known, he reveals ... generally a fair statement of his past life, apprehensive of being detected in stating what is untrue.'⁹⁷

⁹⁴ P.R. Eldershaw, *Guide to the Public Records of Tasmania. Section Three. Convict Department Record Group*, Hobart, 1965.

⁹⁵ Ralph Shlomowitz, 'Convict Workers: a review article', *Australian Economic History Review*, Vol. XXX, No.2, September 1990, p.83; Reid, 'Work, Sexuality and Resistance', pp.124-125; Oxley, *Convict Maids*, pp.21, 26-27.

⁹⁶ Oxley, *Convict Maids*, p.27; Reid, 'Work, Sexuality and Resistance', p.126.

⁹⁷ *British Parliamentary Papers, Minutes of Evidence taken before the Select Committee on Transportation*, Vol. XIX, 1837, Evidence of George Arthur, formerly Lieutenant-Governor of Van Diemen's Land, p.282.

There is little information about the policy that determined this collection of information.⁹⁸ Reid suggested that the information was gathered solely as a basis for labour allocation.⁹⁹ This may be true of the information about occupation, trade and skills, but other information was also assembled. Detailed descriptions of convicts were recorded, and, no doubt, were used primarily for identification purposes. Most intriguing is the information gathered about family members. The convict indent recorded the names and location of surviving relatives of the transported convict. In some instances, details about relatives who had been transported or who had emigrated were recorded. It is not clear why this information was recorded or how it was used.

The records themselves determine what can be discovered about the lives of the arsonists, and, for the main, these were records created by government or other authorities, not by the women themselves.¹⁰⁰ As Raphael Samuel noted, it is the official characters who guide the researcher's journey.¹⁰¹ Countering the 'silences and deficiency of the written record' is difficult when all that exists is the 'shrivelled tissue' in the researcher's hand.¹⁰²

⁹⁸ *British Parliamentary Papers, Report of the Commissioner of Inquiry into the State of the Colony of New South Wales*, Volume XX, 1822, pp.13-14 [Bigge Report]: the questioning of newly-arrived convicts was of 'a very detailed nature ... correctness and particularity of great importance'.

⁹⁹ Reid, 'Work, Sexuality and Resistance' p.126.

¹⁰⁰ For the problems associated with sources, see Susan Eade, 'Social History in Britain in 1976 – A Survey', *Labour History*, Vol.31, 1976, pp.40-52.

¹⁰¹ Raphael Samuel (ed.), *Village Life and Labour*, London, 1975, pp.xiii, xv.

¹⁰² Eade, 'Social History', p.2 citing E.J. Hobsbawm, 'Economic and social history divided', *New Society*, 11 July 1974.

One of the most useful parts of the convict record for this study is the convict's statement of offence, or confession, which, ostensibly, was the recording, in the convict's own words, of the reason that he or she was transported.¹⁰³ In many cases, there is additional information contained in this section. Some women, for example, stated that they had deliberately committed the crime in order to be transported. Others expanded this information to include why they deliberately committed the crime. Still others added the names of those with whom they were tried. In some cases, however, conflicting information raises questions about the validity of the information: five women transported from Tipperary on the *Earl Grey* in 1849 – Margaret Butler; Alice Collins; Johanna Connolly; Ellen Fleming and Margaret Leggitt – illustrate this point. According to Davis, Connolly:

brazenly told her judge that they did it to be put in gaol. But when sentenced to transportation, they were apparently taken by surprise and 'removed from the bar loudly crying.'¹⁰⁴

In Van Diemen's Land, however, Leggitt stated to the authorities that she had deliberately sought transportation.¹⁰⁵ The authenticity of the statement of offence is problematic. It cannot be determined whether what the women said was accurate, or whether they were influenced by a perceived advantage in confessing to deliberately committing arson. It is complicated by not knowing why the question was asked, and how it was used.

Frost and Maxwell-Stewart wrote that

The traces of the past, particularly the traces of the convict past, are public documents, be they registers, or prison jackets or identity numbers. They tell us

¹⁰³ See Ian Duffield, '“Stated this Offence”: high-density convict micro-narratives' in Frost and Maxwell-Stewart, *Chain letters*, pp.119-135.

¹⁰⁴ Davis, 'Not So Bad as a Bad Marriage', p.46 citing *Tipperary Free Press* 21 March 1849.

¹⁰⁵ AOT, CON 41/26 Margaret Leggitt *Earl Grey* 1850 No.466.

little or nothing about prisoners as fathers and mothers, though the legion of convict descendants stand testimony to this other convict story.¹⁰⁶

Family history records, including family papers, photographs and oral history, shed some light on the colonial experience of the deliberate arsonists, as do government-created documents such as civil registration records. The process of tracing the colonial experience of the deliberate arsonists is aided by an administrative appendage of the convict system: the name of the ship of arrival. Many of the records, particularly those created by government, include the ship's name almost as part of the convict's name. This makes it possible to track the women, in some instances long after they were free. Complications, however, can arise when two or more convicts of the same name arrived on the one ship: there were, for example, four women named Mary Murphy aboard the *Maria II* in 1849. To distinguish them, they were referred to in the convict records as Mary Murphy 1st, Mary Murphy 2nd, Mary Murphy 3rd and Mary Murphy 4th. They were also allocated individual convict numbers.¹⁰⁷ In this study, then, the deliberate arsonist named Mary Murphy is referred to as Mary Murphy 2nd *Maria II* 1849 No.997. Ships were also distinguished by number: the number following the name of the ship refers to the voyage, so, *Mary Ann III* (2) indicates the second voyage of the *Mary Ann III*.¹⁰⁸

By using family history techniques, and a combination of convict and marriage records, it is possible to trace individual women. Further complications are

¹⁰⁶ Lucy Frost and Hamish Maxwell-Stewart, 'At large with run-a-ways', in Frost and Maxwell-Stewart (eds), *Chain letters*, pp.201-209.

¹⁰⁷ These sometimes varied between records. For the purpose of this thesis, the number used is the one used on the convict conduct record.

¹⁰⁸ The voyage number refers to voyages to Van Diemen's Land only.

created by variations in spelling, and the adoption of aliases or the names of *de facto* partners. Elizabeth Coghlan, a deliberate arsonist from Cork, was recorded on her conduct record and indent as 'Coghlan' in 1849;¹⁰⁹ and as 'Coughlin' on the birth record of her daughter at the Female House of Correction, Hobart in 1851 (although her daughter Julia was recorded as 'Coughlan' when she was baptised and 'Coghlan' when she died).¹¹⁰ On the birth record of another child, in 1858, Elizabeth appeared as 'Poplin'.¹¹¹ In 1854, Elizabeth married John Hilsley,¹¹² variously recorded as 'Hilsby',¹¹³ 'Hillesley',¹¹⁴ 'Ellerslie',¹¹⁵ and 'Ellsley'.¹¹⁶ When she died in 1864, Elizabeth Coghlan's name was recorded as 'Elizabeth Coglán *ux* Ellerslie'.¹¹⁷ Other women changed their given and family names, sometimes several times. Throughout this thesis, the name is recorded as it appeared on the document used. A variation from the standard spelling (that used on the conduct record or consistently adopted by the family) may be shown by the use of inverted commas.

Organisation of the Thesis

This thesis is divided into two parts. The first part examines the background of the women who stated they deliberately committed arson in order to be

¹⁰⁹ AOT, CON 41/22 and CON 15/5 Elizabeth Coghlan *Maria* (2) 1849 No.966: Elizabeth Coghlan.

¹¹⁰ AOT, RGD 33/4 1851 Hobart No.521: Julia Coughlin; AOT, NS 1052/8 (1851) p.141; AOT, RGD 35/3 1852 Hobart No.1295: Julia Coghlan.

¹¹¹ AOT, RGD 33/36 1858 Kingston No.797: male Hilsley.

¹¹² AOT, RGD 37/13 1854 Hobart No.305: Coghlan/Hilsley.

¹¹³ AOT, CON 52/7 p.174: Coghlan/Hilsby.

¹¹⁴ AOT, CON 33/25 and CON 14/16 John Hillesley *Elphinstone* (3) 1842 No.6080.

¹¹⁵ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coglán *ux* Ellerslie. 'Ux' is an abbreviation for the Latin 'uxor', meaning a wife or legally married woman: see <http://www.legal-explanations.com/definitions/uxor.htm>.

¹¹⁶ AOT, RGD 35/11 1887 Hobart No.711: Jane Ellerslie or Ellsley.

¹¹⁷ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coglán *ux* Ellerslie.

transported from Ireland. The second part investigates the colonial lives of the women, especially after they were emancipated.

My research begins with an analysis, in *Chapter One: The Nature of Arson*, of how the female arsonists have been represented historiographically, and explores the nature of the crime of arson, as well as ideas about female criminality. It also examines how the Irish female arsonists fit into the historiographical debate, analysing what has been said about them and the perception of the motivation of the women for committing arson. It asks whether the women could have been political or social protesters, and looks at why the women, particularly the deliberate arsonists, said they committed arson.

Chapter Two: The Arsonists is a prosopographical profile of the deliberate arsonists and includes a statistical summary of their background. This chapter shows the dramatic increase in numbers of Irish women transported for arson in the late 1840s and early 1850s, especially those who confessed they had deliberately committed the crime in order to be transported. It looks at the conditions in Ireland in the late 1840s and early 1850s and examines the relationship between poverty and crime, and the devastating impact of the Famine. It considers the notion of deliberate offending, and explores possible reasons for the dramatic increase in the numbers of women using arson as a method to engineer transportation. It questions why the women chose arson and not some other crime to secure transportation. While nearly half of these

offenders received a seven-year sentence, others received fifteen years or life. Why not steal a petticoat if the aim was to escape Ireland?

Chapter Three: 'mere gratuitous emigration?' examines the concept of transportation as emigration. At least one Colonial Office official suggested that the Irish convicts, generally, and the arsonists, specifically, viewed transportation not as punishment but 'mere gratuitous emigration'.¹¹⁸ Irish emigration to Australia peaked in 1853 and focused very much on young single women in an attempt to balance the disproportionate male:female ratio in the colony. This chapter considers why young Irish women resorted to crime rather than take advantage of government and private assistance, and queries whether the arsonists were 'rejects' of the various migration schemes. It explores the extent to which the deliberate arsonist had family members already transported, and whether this may have been a motivation to commit arson. This chapter also considers whether the deliberate arsonists attempted to link up with other family members. It examines the notion that the Irish left home in an extended chain of migration: one family member, usually an elder son or daughter, leaving the new land and then sending back for siblings or cousins, and finally parents.

The second part of the thesis concentrates on the colonial lives of the deliberate arsonists when they were technically free, when they were 'on their own hands'. Following studies of immigrant women made by Elizabeth Rushen and Jan Gothard, this part of the thesis relies on family reconstitution techniques, a

¹¹⁸ AOT, GO 1/75 p.172 Merivale to Waddington 11 June 1849.

process of systematic research using detailed demographic information contained in baptism, burial and marriage registers.¹¹⁹ Studies of individual women reveal the breadth of their experience. An analysis of the colonial lives of the deliberate arsonists tenders clues to an understanding of Van Diemen's Land society, particularly the shape and nature of marriage and family patterns, and of female work and survival strategies. The second part of this thesis also explores the notion that the women – because they were young and single with adaptable skills – were an ideal human capital resource.¹²⁰ By reconstructing fragmentary evidence, it attempts to understand how the women negotiated the experience of emancipation as enterprising agents rather than passive victims. This section investigates whether the deliberate arsonists, despite being constrained by colonial policies and attitudes, were nonetheless able to shape their circumstances and outcomes, and whether they used the opportunities available to them. In doing so, the section considers Lake's suggestion that the terms 'victim' and 'agent' are not necessarily mutually incompatible.¹²¹

Chapter Four: Marriage investigates Irish and colonial marriage patterns, applications for permission to marry, the number of marriages and the profiles of

¹¹⁹ For family reconstitution, see E.A. Wrigley, R.S. Davies, J.E. Oeppen and R.S. Schofield, *English Population History from Family Reconstitution, 1580-1837*, Cambridge, 1997. See also Elizabeth Anne Rushen, 'Free, single and female: the women of the first scheme for female emigration to Australia, 1833-1837', unpublished Ph.D. Thesis, Monash University, 1999; and Janice Gothard, 'Government-assisted migration of single women from Britain to Australia 1860-1900', unpublished Ph.D. Thesis, Murdoch University, 1991. See also Elizabeth Rushen, *Single & free. Female Migration to Australia, 1833-1837*, Melbourne, 2003, and Jan Gothard, *Blue China. Single Female Migration to Colonial Australia*, Melbourne, 2001.

¹²⁰ Human capital has been defined as 'the stock of skills and productive knowledge embodied in people'; see Sherwin Rosen, 'Human Capital', in John Eatwell, Murray Milgate and Peter Newman (eds), *The New Palgrave Social Economics*, London, 1989, p.136.

¹²¹ Lake, 'Convict Women', p.48.

the spouses. It also explores the notion of marriage as reformation, and as a survival strategy.

Chapter Five: Families analyses the deliberate arsonists as convict mothers. It investigates the creation of colonial families and the maintenance of family links.

Chapter Six: Working looks at the employment of the deliberate arsonists, the skills they brought with them and their colonial work. It also assesses the impact of depressed economic conditions from the 1860s.

Chapter Seven: Surviving examines the notion of the vulnerability of Irish convict women, as well as the various survival strategies employed by the deliberate arsonists. It examines how the women sought assistance from external agencies and the role of the police and magistrates in determining the outcome of applications for assistance.

Chapter Eight: Dying looks at death and burial. The women who committed arson deliberately did so in order to improve their circumstances. For some, this was simply an immediate need to overcome hunger and lack of accommodation; for others, there was a long-term desire to escape from poverty and 'to better their condition'.¹²² An analysis of the deaths of the women is an important part of their story. Not only is it symbolically the end of their journey, but it provides a means by which to assess how effective they were in achieving their goals of a better life.

¹²² See, for example, AOT, CON 41/36 and CON 15/8 Catherine Duggan *Midlothian* 1853 No.841; CON 41/36 and CON 15/8 Margaret Bourke *Midlothian* 1853 No.1213.

Such a study is also important for what it reveals about their lives and experiences in Van Diemen's Land.

The conclusion is a summary of arguments and findings. It analyses the success of the women in achieving their aim of improving their circumstances by engineering transportation. In concluding, I suggest that this thesis adds to the body of knowledge about the female convict experience, generally, and the deliberate arsonists, specifically. As far as I am aware, this is the first time that a comprehensive study of a group of convict women, grouped by crime, has been carried out.¹²³ No study has looked specifically and extensively at courting transportation, at transportation as emigration. It is also the first time that the female convict experience post-sentence has been looked at in detail in a Tasmanian context, with a focus on individuals and using family history techniques. The thesis concludes that transportation was not simply a punishment – that impoverished, marginalised women in post-Famine Ireland were not simply passive ciphers but actively sought change.

¹²³ For a study of men grouped by crime, see Mel Kennan, 'The Armagh Five: Irish Ribbonmen in Tasmania 1840-1850' in *The Electronic Journal of Australian and New Zealand History* at <http://www.jcu.edu.au/aff/history/articles/kennan.htm>.

Chapter One: The Nature of Arson

The introduction to this thesis outlined four fundamental questions relating to the Irish female arsonists. The first question asked why so many women committed arson in Famine and post-Famine Ireland. An analysis of the nature of arson is essential to understanding why a growing number of women committed arson at this time. This chapter explores the crime and considers how arsonists and female criminality have been represented historiographically. It also examines how the Irish female arsonists fit into the historiographical debate. To date, this debate has focused on whether the arsonists were social protesters. Historians such as A.G.L. Shaw, L.L. Robson and H.S. Payne argued that the Irish female arsonists were part of Irish rural agitation, simply on the basis of the crime they committed.¹ Later historians, including John Williams and George Rudé, disagreed. This chapter asks whether the women could have been political or social protesters, by first looking at arson as a form of protest and then the reasons given by the women for committing arson.

Arson was a crime against property and did not necessarily involve injury to any person. It was a particularly visible crime. For those who wanted to be caught, it

¹ A.G.L. Shaw, *Convicts and the Colonies. A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, Melbourne, 1978, p.183; L.L. Robson, 'Origin of Women Convicts', *Historical Studies*, Vol.11, No.41, 1963, pp.43-53; H.S. Payne, 'A Statistical Study of Female Convicts in Tasmania, 1843-1853,' *THRAPP*, June 1961, Vol.9, No.2, pp.56-69.

was a good choice and a potent symbol. However, those who committed the crime also ran the risk of a death sentence or transportation for life.²

Arson was also a compelling symbol of protest. Writing about patterns of convict protest in New South Wales, Alan Atkinson observed that:

Haystacks were an excellent medium of protest. They made a sudden and spectacular flame and yet the fire could be easily contained, so as not to overdo the point or endanger the convicts own property.³

Many historians have written about the strong tradition of arson as a means of rural protest. Most recently, Bruce Hindmarsh concluded that 'Arson was arguably the most important mode of rural protest in late eighteenth century and nineteenth century England'.⁴

Ireland, in the aftermath of the Famine, was gripped by rural protest. According to Rudé, the dislocation and violent tensions caused by years of famine and disease resulted in a close link between crime and protest-crime, particularly in the rural areas of the South; in many cases, as with cattle-maiming and stock-stealing, crime and protest barely could be distinguished.⁵ Rudé acknowledged that there were significant differences in the nature of protest in Ireland and

² For capital offences, see Rena Lohan, 'Sources in the National Archives for research into the transportation of Irish convicts to Australia (1791-1853)', *Journal of the Irish Society for Archives*, Spring 1996, Vol.3, No.1, pp.13, 28: Lohan estimated that in 1823 the number of capital statutes totalled 2003; by the 1850s, the death penalty was restricted to murder and treason. Public execution ended in 1866. In the case of arson, it was only where fire threatened life that the crime was considered a capital offence: see, for example, NAI, CRF 1850 L 19 and TR10 p.293: Eliza (or Elisha) Keating and Mary Lee tried in Carlow in March 1850 and sentenced to death for burning a house with people in it. The sentence was commuted to transportation for life. Both women were transported on the *Duke of Cornwall*; Keating as 'Alicia' Keating: see AOT, CON 41/28 Nos.400, 476.

³ Alan Atkinson, 'Four Patterns of Convict Protest', *Labour History*, Vol.37, 1979, p.42.

⁴ Bruce Hindmarsh, 'Scorched Earth: Contested Power and Divided Loyalties on Midlands Properties, 1820-1840', *Tasmanian Historical Studies. Exiles of Empire*, Vol.6, No.2, 1999, p.69.

⁵ George Rudé, *Protest and Punishment: The Story of the Social and Political Protesters transported to Australia 1788-1868*, Oxford, 1978, p.34.

England at this time, particularly in the nature of the crimes committed. Poaching was a typical protest crime in England but not in Ireland. Violent crimes against property, such as robbery of arms, forcible possession of property, armed assembly, and attacks on houses and land, were much more likely to be committed in Ireland than England.⁶ In England, arson was a distinct and separate protest crime; in Ireland, it was a protest crime merged with many others.⁷

Arson, then, was an integral part of resistance and protest in nineteenth-century England. Yet it could also be a criminal act. In County Down in 1817, brothers Peter and Thomas Rogan committed arson 'with intent to defraud the insurance office'.⁸ Pat McAllen was tried in Dublin City in 1845 and sentenced to transportation for life for arson of his own house, which was insured for £3000.⁹ In many cases, the categorisation of arson is not clear-cut and raises fundamental questions about the nature of crime and protest. Rudé suggested that some historians believe that all protest is a crime against society, while others see all crime as a form of protest.¹⁰

Traditionally, crime was categorised simply according to whether it was against the person or against property. The limitations of such categorisation were realised by social historians studying crime in the eighteenth and nineteenth centuries. Hobsbawm and Rudé in *Captain Swing* focused attention on the rural

⁶ Rudé, *Protest and Punishment*, p.32.

⁷ For reports of agrarian protest arson, see *Roscommon and Leitrim Gazette* 2 March 1844 p.4 col.3 (Carlow); *Kerry Evening Post* 30 March 1850 p.4 col.4 (Down and King's County). Many examples are contained in the NAI, CSO Outrage Papers.

⁸ AOT, CON 31/34 and CON 13/1 *Minerva* 1818 Peter Rogan No.48 and Charles Rogan No.49.

⁹ AOT, CON 33/75 and CON 14/35 Pat McAllen *Samuel Boddington* 1846 No.17545.

¹⁰ Rudé, *Protest and Punishment*, pp.2-3. For an example of the latter group, see J.L. and B. Hammond, *The Village Labourer 1760-1832*, London, 1913.

labourers' uprising of 1830, and the incendiarism of the years following, but did not attempt to analyse it in terms of criminality.¹¹ In a series of essays published as *Albion's Fatal Tree. Crime and Society in Eighteenth-Century England*, a group of historians introduced the more descriptive term of 'social crime' to distinguish the type of crime which was the focus of Hobsbawm and Rudé's study. Social crime was committed by 'good criminals' – embryonic revolutionaries or reformers, forerunners of popular movements which included all kinds of rioters, smugglers, poachers, and industrial rebels.¹² Social crime, which was often rural-based, included activities proscribed by common law, but often involved an appeal to tradition or common rights and some form of community sanction. It was partly created by 'a property conscious oligarchy redefining, through its legislative power, activities, use-rights in common or woods, perquisites in industry, as thefts or offences'.¹³ Activities which were previously innocent or venial (such as some forms of poaching, wood-theft, anonymous letterwriting) were redefined as crimes, in statutes, often with a death sentence. The remaining offenders – those who did not commit 'social crime' – were those who 'commit crime without qualification': thieves, robbers, highwaymen, forgers, arsonists, and murderers.¹⁴

John Rule further refined the categories of crime, suggesting that there were two main types of social crime from the late eighteenth to the end of the nineteenth

¹¹ E.J. Hobsbawm and George Rudé, *Captain Swing*, London, 1969.

¹² Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson, Cal Winslow, *Albion's Fatal Tree. Crime and Society in Eighteenth-Century England*, London, 1975, p.14; George Rudé, *Criminal and Victim. Crime and Society in Early Nineteenth-Century England*, Oxford, 1985, p.85. Other activities included sending anonymous letters and rescuing hanged bodies.

¹³ Hay et al, *Albion's Fatal Tree*, p.13.

¹⁴ Hay et al, *Albion's Fatal Tree*, p.14.

century. The first was characterised by its explicit protest nature, and by collective legitimation. The second included those activities which were against the law, but were not regarded as criminal by those who committed them. Poaching, illicit distilling, wrecking and smuggling were typical examples of this second group.¹⁵ Emsley suggested that the value of the concept of social crime is that it draws attention to the fact that laws were not universally accepted and that some offences on occasions could be legitimised by social groups and communities.¹⁶

In *Criminal and Victim*, Rudé extended earlier categorisations of crime, suggesting three categories: acquisitive crime; social or survival crime; and protest crime.¹⁷ In doing so, Rudé acknowledged that the division, particularly between acquisitive and survival crime, is not clear-cut, depending largely on the scale of the offence and motive. For Rudé, social crime correlated with 'survival' crime.¹⁸ He stated that social crime and protest crime were clearly distinct categories: protest is a collective act, though not necessarily carried out in the company of others, and takes place within the context of a popular movement. It is a protest which is in breach of the law.¹⁹ Examples of protest crime included trade union militants; machine-breakers; food-rioters; demolishers of fences, turnpikes, and workhouses; administrators of unlawful oaths; treasonable or seditious

¹⁵ J.G. Rule, 'Social Crime in the Rural South in the Eighteenth and Early Nineteenth Centuries', *Southern History*, No.1, 1979, pp.135-153.

¹⁶ Clive Emsley, *Crime and Society in England, 1750-1900*, London and New York, 1987, p.5.

¹⁷ Rudé, *Criminal and Victim*, p.78.

¹⁸ Rudé, *Criminal and Victim*, p.78.

¹⁹ Rudé, *Criminal and Victim*, p.78. See also Rudé, *Protest and Punishment*, p.2.

persons; armed rebels and city rioters.²⁰ Although protest crime was unambiguous, Rudé admitted the need for an intermediary category of ‘marginal protest.’ Crimes such as arson, animal maiming, poaching, assault, assaults on peace officers and the sending of anonymous letters all fall into Rudé’s category of marginal protest, which he also called social protest and which was distinct from social crime.²¹ Rudé argued that it is important to be more discriminating in categorising crime: to distinguish between the common-law offender who, however acute the provocation, simply helped himself or settled a purely private score and the one who either acted with others or appeared to do so in pursuit of common political or social goals.²²

John Archer argued that the attempt to classify various criminal offences results in confusion and misunderstanding, particularly relating to crimes such as arson, animal maiming and poaching, and their categorisation as social crime, protest crime or a combination of the two.²³ The authors of *Albion’s Fatal Tree* also acknowledged the difficulty of categorising certain rural crimes such as arson, animal maiming and poaching.²⁴ Arson, in particular, caused problems of classification: Rule concluded that it was not possible to say definitely how much arson could be regarded as social crime.²⁵ Rule drew a distinction between protest

²⁰ Rudé, *Criminal and Victim*, pp.85-86.

²¹ Rudé, *Protest and Punishment*, p.4; Rudé, *Criminal and Victim*, p.86.

²² Rudé, *Criminal and Victim*, p. 86; Rudé, *Protest and Punishment*, pp.3-7.

²³ John E. Archer, *By a Flash and a Scare. Incendiarism, Animal Maiming, and Poaching in East Anglia 1815-1870*, Oxford, 1990, pp.2-3.

²⁴ David J.V. Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain*, London, 1982, esp. Ch.2, pp.14-15; Clive Emsley, *Policing and its Context 1750-1850*, London, 1983, pp.116-117; Hay et al, *Albion’s Fatal Tree*, pp.13-14.

²⁵ Rule, ‘Social Crime’, pp.135-153.

crime and crime as protest, to which latter group arson and animal maiming might belong.²⁶

The work of Rudé and other historians emphasises the difficulty in defining any crime as belonging to any particular category. Other studies have reinforced this: in his research on sheep-rustling in Yorkshire, Roger Wells classified arson as 'covert social protest' along with theft and the sending of anonymous letters.²⁷ According to Wells, from the late eighteenth to mid-nineteenth century, conditions in rural England mitigated against overt means of protest such as demonstrations, 'food riots' and strikes by the rural labourer. Protest was essentially covert: 'Overt protest was virtually impossible: it would clearly endanger a man's claim to relief. The rural worker's alternative was crime, and ultimately arson and the threatening letter'.²⁸ Arson and threatening anonymous letters, which invariably threatened arson, were interrelated forms of protest, and both had a long history as methods of exacting private vengeance.²⁹ Wells also commented on the use of arson and threatening letters to express public protest rather than exact private vengeance.³⁰

²⁶ Rule, 'Social Crime', pp.152-153.

²⁷ R.A.E. Wells, 'Sheep-Rustling in Yorkshire in the Age of the Industrial and Agricultural Revolutions', *Northern History*, No.20, 1984, pp.127-145.

²⁸ Roger A.E. Wells, 'The Development of the English Rural Proletariat and Social Protest, 1700-1850', *The Journal of Peasant Studies*, Vol.6, No.2, January 1979, p.127.

²⁹ Wells, 'English Rural Proletariat', p.129. See also L. Radzinowicz, *A History of the English Criminal Law and its Administration from 1750*, Vol.1, London, 1948-1968, p.9 and E.P. Thompson, 'The Crime of Anonymity' in Hay et al, *Albion's Fatal Tree*, London, 1975, pp.255-308.

³⁰ Wells, 'English Rural Proletariat', p.129.

Archer, asking whether a difference existed between social and protest crime, emphasised that context is a crucial determinant of the type of crime.³¹ Activities such as food rioting, machine-breaking, and trade unionism, which contain 'an element of protest supported by popular legitimacy',³² are relatively clear-cut protest crimes. Arson, animal maiming, and the sending of anonymous letters are less clear, and he described them as social crimes. These crimes contain an element of protest, but do not necessarily reflect the opinions of the community. Social crimes, unlike protest crimes, were viewed by everybody as illegal activities, and this is the crucial difference between the two categories. He argued that on this point there was no clash between customary behaviour and statutory law. Starting a fire, in itself, was wrong. But, he continued, the context of the fire was important – who lit what, against whom, and why? Archer argued that these factors very often determined the labouring community's attitude to an incendiary fire: 'arson was viewed as a legitimate weapon of protest where the arsonist was expressing a collective grievance on such matters as low wages or unemployment. In these circumstances arson was legitimized by popular opinion and should be referred to as social protest crime.'³³ For Archer, the one vital determinant of what constituted social crime was how the community viewed the action of the criminal: an illegal activity might not be viewed as criminal by the labouring community and might be popularly sanctioned. An element of protest might be present but it was not the primary motive. He agreed with Rule's observation in the case of sheep stealing that people may excuse the sheep stealer, not because

³¹ Archer, *By a Flash and a Scare*, pp.5-6.

³² Archer, *By a Flash and a Scare*, pp.5-6.

³³ Archer, *By a Flash and a Scare*, pp.5-6.

they positively approve of the act, but rather because they sympathise with his or her poverty.³⁴

Most historians writing about arson agree that two factors are uppermost in distinguishing protest crime and social crime: context and motivation. Archer suggested that in the case of collective protest, the motivation of the participants is clearly discernible: the authorities are confronted and forced to take notice of overtly expressed grievances. However, in the case of a disfigured sheep or a smouldering barn, motivation is more difficult to discern, particularly as the arrest and conviction rates for these individual acts were low. He stated that 'contemporaries had very little to go on, and historians have even less'.³⁵ Archer emphasised that just as crime in general is not fixed or static, neither is protest and social crime. He found that, in England, the types of people convicted, their motivation, and the communities' response to fires changed quite dramatically between 1815 and 1870.³⁶

Defining protest as 'any confrontation with authority involving, or implying, some assertion of general principle',³⁷ Alan Atkinson divided types of protest into four categories: attack, physical or verbal, showing a fundamental rejection of authority; appeal to authority, following a perceived invasion of rights; withdrawal of labour; and compensatory retribution, where the convicts turned to 'a supplementary code of punishment, of their own devising, to punish their

³⁴ Archer, *By a Flash and a Scare*, p.5; J.G. Rule (ed.), *Outside the Law: Studies in Crime and Order 1650-1850*, Exeter, 1982, p.118. See also Rudé, *Protest and Punishment*, p.4.

³⁵ Archer, *By a Flash and a Scare*, p.4.

³⁶ Archer, *By a Flash and a Scare*, p.4.

³⁷ Atkinson, 'Four Patterns of Convict Protest,' p.30.

masters for some specific act of injustice'.³⁸ Although Atkinson's argument is concerned with convict protest in New South Wales, his breakdown of types of protest is nevertheless useful. Particularly relevant to a discussion of the Irish female arsonists is Atkinson's fourth category: that of compensatory retribution.

While John Williams and George Rudé both implied that retributory arson was not protest, Atkinson argued that retribution is a form of protest.³⁹ He suggested that retribution was usually carried out with discretion, and it was property rather than individuals which suffered. Retribution did not necessarily benefit the offended party. Turning to Hobsbawm and Rudé for support, he suggested that convict arsonists, like early nineteenth-century English rick-burners, were not attempting to disrupt society but were seeking restoration of their rights within society: 'modest, subaltern, but *rights*'.⁴⁰ His argument rested on the assumption that every individual knew his rights without being organised and persuaded:

They were inherent in his position as a labourer, sharing with other labourers a customary relationship with authority. Why then is the assertion of these rights to be treated as 'genuine' only when masses move together, as if principled demands must involve not only shared assumptions but collective action?⁴¹

Atkinson examined the question of group or class solidarity, and said that it takes two forms: solidarity in opposition to power (as in attack) and solidarity as a means of treating with it. In the first case, he says, the distinctiveness of the protesters is very clear, and they make no attempt to join in dialogue with their rulers. In the second, the solidarity may be partial, and also slightly aimless, there

³⁸ Atkinson, 'Four Patterns of Convict Protest,' p.30.

³⁹ John Williams, *Ordered to the Island. Irish Convicts and Van Diemen's Land*, Sydney, 1994, p.75; Rudé, *Protest and Punishment*, pp.146-148; Atkinson, 'Four Patterns of Convict Protest,' pp.30, 39-43.

⁴⁰ Hobsbawm and Rudé, *Captain Swing*, p.61. Emphasis in text.

⁴¹ Atkinson, 'Four Patterns of Convict Protest,' p.41.

being a sense in which protesters reach out to even the rulers themselves: they ask them to agree. According to Atkinson, the arson of the convict incendiary (like that of 'Captain Swing') was often only an episode, part of a longer dialogue between himself and his master, a code which patterned behaviour.⁴²

To summarise, it is important to examine arson as a crime in order to understand the phenomenon of arson in Famine and post-Famine Ireland. Arson was more than a crime against property. According to some historians, the most constant protest crime was arson, although not all arson was protest and significant differences existed depending on where and when it was committed. Arson has also been categorised as a social crime or survival crime: that is, a crime technically in breach of the law but legitimised by certain social groups, and often committed in order to simply exist.

Given the conditions in Ireland in the late 1840s and the late 1850s, it is reasonable to assume that the high numbers of women committing arson were in some way linked to agrarian unrest. However, a closer examination of the reasons why women committed arson at this time in Ireland demonstrates that this explanation is too superficial. Sinead Curley, in her study of transportation in County Clare, warned that the idea of crime as protest should be treated cautiously and argued that individual cases should be judged on their merit:

⁴² Atkinson, 'Four Patterns of Convict Protest,' p.41.

It is imperative that other considerations be taken into account, such as the precise nature of the act, where, how and against whom it was committed and the traditions of the community to which the victim and his assailant belonged.⁴³

She added that protest crime might be easily identifiable or it might be concealed behind other crimes such as robbery or burglary: it is the context of the crime that is significant. Furthermore, social and economic conditions are crucial to any analysis of the type and intensity of crime. Curley noted, too, the possibility of regional differences and suggested that it is difficult to be aware of constraints such as customs, traditions, feuds, and hatreds within communities. Significantly, she concluded: 'It is impossible to say therefore with any real certainty that the reasons given for the crime are the truth'.⁴⁴ She agreed with Rudé that an assault or threat against a person in authority or against a rival claimant to a piece of land may be reasonably assumed to be a form of protest even when made by individuals rather than organised groups; whereas a scuffle in a pub, the murder of a relative in a family quarrel or a simple act of highway robbery may not.⁴⁵ Even so, Curley advocated caution: 'in the course of the Irish land war there were plenty of unlawful activities going on that had little to do with protest'.⁴⁶ A single act of arson may have an element of protest but arson was not only a protest crime. Its classification depends upon context and motivation, and these may not always be clear.

⁴³ Sinead Curley, 'Transportation in Clare Before and After the Famine' in Bob Reece (ed.), *Irish Convicts. The Origins of Convicts Transported to Australia*, Dublin, 1989, p.84.

⁴⁴ Curley, 'Transportation in Clare', p.84.

⁴⁵ Rudé, *Protest and Punishment*, p.4; Curley, 'Transportation in Clare', p.84.

⁴⁶ Curley, 'Transportation in Clare', p.84.

Historiographical debate about the Irish female arsonists, to date, has focused on whether the arsonists were social protesters. Historians such as Shaw, Robson and Payne slotted the arsonists neatly but uncritically into the context of Irish rural agitation, simply on the basis of the crime they committed. The female arsonists were included in the general exclusion of the Irish, particularly the Famine-affected rural Irish, from the stereotypical criminal class.⁴⁷

Shaw considered that the Irish female arsonists were not professional or habitual criminals but social offenders, driven to crime by desperate poverty. He located the Irish female arsonists, uncritically, in the category of 'either political or "social" offenders' or 'social rebels'.⁴⁸ Using data compiled from Robson and Payne's studies of female convicts, Shaw concluded that:

About four per cent of the 9,000 Irish females transported were guilty of arson, compared with only one per cent in England, *so apparently some women took part in agrarian agitation too*.⁴⁹ [my emphasis].

Payne, in his statistical study of female convicts in Tasmania between 1843 and 1853, found that few of those convicted of arson had been convicted before, and few were convicted of criminal acts in Van Diemen's Land. He argued that the high incidence of the offence in Ireland among women showed the women's 'desperate plight' in the face of famine, evictions, and an unjust legal system.⁵⁰ Payne concluded that 'arson offenders were not pyromaniacal torch-bearing

⁴⁷ For a summary of this aspect of convict historiography, see Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Cambridge, 1996, pp.66-67.

⁴⁸ Shaw, *Convicts and the Colonies*, p.183.

⁴⁹ Shaw, *Convicts and the Colonies*, p.183. See Robson, 'Women Convicts', pp.43-53; Payne, 'Female Convicts', pp.56-69.

⁵⁰ Payne, 'Female Convicts', p.58.

criminals, but people with a real grievance and therefore deemed by the law to be firebrands in themselves'.⁵¹

Robson reached a similar conclusion to that of Payne, but viewed the Irish female arsonists as political offenders. From his examination of reports of parliamentary committees, Robson argued that the offence was 'closely connected with evictions and the placing of new tenants on holdings of grounds.'⁵²

Unlike Shaw, Payne and Robson, John Williams, in his detailed study of Irish convicts transported to Van Diemen's Land, more critically considered the Irish female arsonists in the context of the agrarian unrest in Ireland.⁵³ Williams viewed arson as a crime committed by social offenders, frequently linked to rural revolt.⁵⁴ However, Williams separated the female arsonists from agrarian protest, arguing on several grounds that they could not be social or political offenders. He argued this on the basis of the number of previous convictions, concluding that 'it would be more realistic to regard them as regular and hardened offenders rather than as women with social or political grievances'.⁵⁵ He further contended that:

Most of the arson committed by women was directed against no one in particular ... These women, because they did not know the victims of their crimes, cannot be considered social offenders protesting against the law or trying to protect their land.⁵⁶

⁵¹ Payne, 'Female Convicts,' p.58.

⁵² Robson, 'Women Convicts', p.51.

⁵³ Williams, *Ordered to the Island*, pp.72-75. See also John Williams, 'Irish Convicts and Van Diemen's Land', unpublished M.A. Thesis, University of Tasmania, 1972. For a comparison of Robson and Williams' methodology, see Susan R. Allan, 'Irish Convicts – Hampdens or Hardened Criminals? A Review of the Work of Lloyd Robson and John Williams: A Comparative Case Study', *Tasmanian Historical Studies*, Vol.7, No.2, 2001, pp.95-118.

⁵⁴ Williams, *Ordered to the Island*, p.47.

⁵⁵ Williams, *Ordered to the Island*, pp.73-74.

⁵⁶ Williams, *Ordered to the Island*, pp.74-75.

Williams noted that the motives of many of the arsonists were not known, and that this in itself was unusual, as 'in the case of male social offenders, motives and details of the crime are often given.'⁵⁷ In support of his case, he asserted that 'No female arsonist transported from Ireland to Van Diemen's Land stated that the offence was the result of a land or rent dispute.'⁵⁸

While accepting Robson's definition of the existence of a criminal class based on previous convictions, Williams argued that arson was a crime committed by hardened or persistent offenders, and those who committed it were no different to any other criminal. Female convicts, transported from Ireland, he wrote, do not generally deserve the good opinions held of them by historians. Despite being forced to crime by distress and starvation, and deliberately committing crimes in order to escape the 'terrible consequences of the Famine', the Irish convict women were not social offenders or 'Village Hampdens'.⁵⁹ Williams used the fact that women deliberately committed crimes in order to be transported to support the idea, expressed by Broehl in *The Molly Maguires*, that women did not take part in the Irish agrarian and political disturbances of the nineteenth century.⁶⁰ Because the women committed the offence in order to be transported, Williams argued they cannot be considered part of Irish rural protest.

⁵⁷ Williams, *Ordered to the Island*, p.75.

⁵⁸ Williams, *Ordered to the Island*, p.75.

⁵⁹ Williams, *Ordered to the Island*, p.83.

⁶⁰ Williams, *Ordered to the Island*, p.74; Wayne G. Broehl, Jr, *The Molly Maguires*, Cambridge, Massachusetts, 1964, p.25.

Elements of Williams' analysis were picked up by later historians including George Rudé and Richard Davis.⁶¹ Rudé concurred that the Irish female arsonists could not be considered even marginal social protesters, because they stated that they deliberately committed the crime in order to be convicted, often not knowing the names of their prosecutors.⁶² Davis extended the argument, implying that, because the women did not know their prosecutors, in committing arson they were deliberately courting arrest.⁶³

Rudé is one of the few historians to examine closely the place of the Irish female arsonists in the context of protest. Beginning with the striking discrepancy between the number of Irish female arsonists compared with the men, he then referred to the work of earlier historians such as Shaw, Robson and Payne and the conclusions they drew from the statistics. Rudé suggested that this evidence points to 'a form of social protest in which women played an altogether outstanding role'.⁶⁴ He then went on to dismiss the difference between the number of male and female arsonists, and concluded that protesters (as he defined the term) were likely to account for no more than a third of the 1,000 arsonists transported to Australia between 1820 and 1868.⁶⁵ He calculated this on the basis of the women's statement of offence – the confession recorded on arrival – arguing that nearly one in seven of these women stated that they had committed the offence in order to be sent to Australia 'either to "better their condition" or to

⁶¹ Rudé, *Protest and Punishment*, pp.4-5, 147; Richard Davis, '“Not So Bad as a Bad Marriage”: Irish Transportation Policies in the 1840s', *THRAPP*, Vol.47, No.1, March 2000, pp.9-64.

⁶² Rudé, *Protest and Punishment*, pp.4-5, 147; Williams, *Ordered to the Island*, p.72.

⁶³ Davis, 'Not So Bad as a Bad Marriage'.

⁶⁴ Rudé, *Protest and Punishment*, p.5.

⁶⁵ Rudé, *Protest and Punishment*, p.5 and Part 3, Ch. 6.

join a parent, a son or a daughter, a brother, sister, or lover who had gone out before them'.⁶⁶ He also stated that the previous records of other women 'seem to accord ill with social protest', while yet others 'proved to be totally ignorant of the names of their accusers'.⁶⁷ He excluded all three groups from his calculation of the number of protesters. Furthermore, he said the same applies to the men, but does not elaborate, except to say that 'the reasons are different'.⁶⁸ He also excluded urban incendiaries. Rudé, however, did not say what it is that enabled the remaining arsonists to be defined as protesters.

Williams also examined the Irish female arsonists in the context of protest. In the category of social offenders linked to rural revolt, Williams included Anthony Kiernan, who 'attempted to burn a man and his family in his house'.⁶⁹ Yet Williams did not mention the two women tried for the same crime. Kiernan did not commit the crime in isolation: he was tried as one of a group of six, which included two women, Catherine Smith, and her thirteen-year-old daughter, Mary. The others in the group were Catherine Smith's husband, Owen, and her two sons, Thomas Smith, aged thirteen and Peter Smith, aged fifteen.⁷⁰ Anthony Kiernan

⁶⁶ Rudé, *Protest and Punishment*, p.5.

⁶⁷ Rudé, *Protest and Punishment*, p.5.

⁶⁸ Rudé, *Protest and Punishment*, p.5.

⁶⁹ Williams, *Ordered to the Island*, p.47.

⁷⁰ AOT, CON 33/28 and CON 14/17 Anthony Kiernan *Kinnear* (1) 1842 No.6752; AOT, CON 33/28 Owen Smith *Kinnear* (1) 1842 No.6817; AOT, CON 33/28 Thomas Smith *Kinnear* (1) 1842 No.6818; AOT, CON 33/28 Peter Smith *Kinnear* (1) 1842 No.6819; AOT, CON 40/10 and CON 15/2 Catherine Smith *Waverley* (2) 1842 No.547; CON 40/10 Mary Smith *Waverley* (2) 1842 No.681. Thomas and Peter Smith were sent to Point Puer. Three other non-convicted children all came as well: one with his father and the other two with their mother: AOT, CON 14/17 Owen Smith *Kinnear* (1) 1842 No.6817; AOT, CON 15/2 Catherine Smith *Waverley* (2) 1842 No.547. See also Joyce Purtscher, *Unnamed Irish Boys on Convict Ships 1841-1843 sent to the Queen's Orphanage Hobart. Van Diemen's Land*, New Town, 1993.

later sent for his wife and family.⁷¹ Like Williams, Rudé also mentioned this case, erroneously putting Catherine Smith in the group of non-protesting incendiary women who offended in order to join loved ones: ‘One of these women, Catherine Smith, of County Longford, whose husband had gone to Tasmania, appears to have persuaded her son and daughter-in-law to help her in the act.’⁷² The petition of Owen Smith and Anthony Kiernan, from Kilmainham Gaol in May 1842, sheds little light on the reason for the arson, although it does protest their innocence, and also indicates that there had been some incident between Catherine Smith and the owner of the house, John Washington Leech, in which she threatened that ‘he should suffer for it in his bed.’⁷³

Williams and Rudé’s analysis of the Smith case highlights the difficulty of determining the arsonist’s intention in committing the crime. Even if the statement of offence, or confession, stated that the crime was committed for a particular reason, it is difficult to know how true this was (as suggested by Curley). The complex and confused statement made by Alice Julian is a good example of this.⁷⁴ On arrival in Van Diemen’s Land in 1852, Alice, a nineteen-year-old dairymaid, stated her offence to be stealing a cloak, not arson. According to the report of her trial in the *Kilkenny Journal*, Alice Julian admitted to arson but was discharged: there would be no prosecution as the house was to be

⁷¹ AOT, CON 33/28 Anthony Kiernan *Kinnear* (1) 1842 No.6752; AOT, GO 33/70 p.368; AOT, MM 71/5 p.583: Kiernan applied for a free passage for his wife and family. See also AOT, CSO 24/262/5875: Ann Kiernan, arrived with Ellen, Lawrence and Anthony on the *Anne Thompson* on 22 April 1851.

⁷² Rudé, *Protest and Punishment*, p.147, citing AOT, CON 40/10.

⁷³ NAI, CRF 1842 S20: Petition of Owen Smith.

⁷⁴ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443.

'thrown down' the day after she set fire to it.⁷⁵ According to this newspaper report, her object in setting fire to the house was to get herself put into gaol in order to escape the misery she was suffering. As a result of her statement, she was taken before the Mayor and the other magistrates of the City, who committed her. Asked whether she would go to her mother and live quietly at home if she were discharged, she reportedly replied that she would burn the first house she met. Consequently, she was sentenced to transportation for seven years for arson. While her convict record clearly states that she was transported for arson, her statement of offence, as recorded on her indent, noted that the offence was stealing a cloak, a gown and a handkerchief.⁷⁶ The statement of offence recorded the convict's own version of why he or she was transported; Alice Julian, then, presumably believed that she was transported for stealing, not arson, although it is also possible that she thought there was some advantage to be gained in saying that she had stolen. It is also possible that administrative inaccuracies accounted for the discrepancy. The reporting and recording of Julian's case demonstrates the difficulty in ascertaining what actually happened in cases of arson and of determining motive.

Both Rudé and Williams failed to take into account groups of arsonists, and the conflicting evidence within the group as to motivation, knowledge of prosecutor, and whether the crime was committed deliberately. In the case of the male arsonists, the records reveal little about motivation. From the convict conduct records and indents of the male arsonists transported to Van Diemen's Land, there

⁷⁵ *Kilkenny Journal* 5 November 1851 p.3 col.5.

⁷⁶ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443.

is evidence of only two who stated why they committed a crime: one for insurance purposes,⁷⁷ and the other 'for a diversion'.⁷⁸ Certainly, it is obvious from the records of many of the mainstream rural protesters that they were clearly involved in agrarian unrest, but, given that they were tried for specific protest crimes such as Ribbonism and Whiteboyism, this is not surprising.⁷⁹ While Rudé may be correct in asserting that the majority of the male arsonists were not protesters,⁸⁰ there is no evidence to support this either way: they may equally have been social protesters, as he defined the term.

The difficulty in determining intention is exemplified by the case of Timothy Mulcahy, who was charged with feloniously and maliciously setting fire to a house. The *Limerick Reporter* reported the case under the heading 'Whiteboy Offence'.⁸¹ It went on to report details which indicated that it was not necessarily a Whiteboy offence. Evidence given at the trial suggested that Mulcahy had admitted to the crime and confessed to a magistrate

that he had been previously confined for burning a house, and that he was determined to be kept and provided for by the county. He had accordingly

⁷⁷ AOT, CON 33/75 and CON 14/35 Pat McAllen *Samuel Boddington* 1845 No.17545.

⁷⁸ AOT, CON 33/48 Michael Mellon *Duke of Richmond* 1844 No.11299: a 15-year-old labourer, tried in Dublin City, he stated: 'I set fire to some shavings but not maliciously. I did it through diversion.' He was transported for 15 years.

⁷⁹ Whiteboy was the term given to a member of the association which arose in Ireland about 1760, ostensibly to resist the collection of tithes; members wore white shirts on their nocturnal raids. For Irish agrarian protest, generally, see Samuel Clark and James S. Donnelly (eds.), *Irish Peasants. Violence and Political Unrest 1780-1914*, Dublin, 1983, esp. Paul E.W. Roberts, 'Caravats and Shanavests: Whiteboyism and Faction Fighting in East Munster, 1802-11', pp.64-101; Maurice J. Bric, 'The Whiteboy movement, 1760-1780' in William Nolan, (ed.), *Tipperary: History and Society. Interdisciplinary Essays on the History of an Irish County*, Dublin, 1985, pp.148-184. See also Christine Kinealy, *The Great Irish Famine. Impact. Ideology and Rebellion*, Hampshire and New York, 2002, pp.117-148, 188-189; Mel Kennan, 'The Armagh Five: Irish Ribbonmen in Tasmania 1840-1850' in *The Electronic Journal of Australian and New Zealand History* at <http://www.jcu.edu.au/aff/history/articles/kennan.htm> (9 April 2002).

⁸⁰ Rudé, *Protest and Punishment*, p.5.

⁸¹ *Limerick Reporter* 25 July 1845 p.1 col.1.

burned four houses, and he was determined to burn more houses until he was sent out of the country.⁸²

Mulcahy, according to the newspaper report, denied the confession: 'The prisoner said that it was not a likely thing that he would go to convict himself in that way'.⁸³ He added:

I have very little to say, but I'm not guilty – where is the man who saw me do it. If I turned informer, Mr. Furlong and the constable would give me a good recommendation.⁸⁴

Sentencing Mulcahy, the judge commented:

You have been found guilty, and the evidence on which you were found guilty was principally your own confession taken before a magistrate, to whom you stated you were desirous of being sent out of the country, or kept in it at the public expense. When you made that confession you appear to have been in a state of mind when you were perfectly capable of judging your actions, and under these circumstances, it is impossible for me to do otherwise than to sentence you to the punishment which the law requires, and that is that you be transported beyond the seas for the period of your natural life.⁸⁵

Tim Mulcahy was transported for arson. His convict records noted previous convictions for arson, as well as one for assault.⁸⁶ His case highlights the complexity of attributing motive.

Comparisons between male and female arsonists are complicated by the fact that, for many of the male convicts, there was a considerable delay between their trial and being transported. Consequently, some of those who were tried at the same time as the female arsonists were transported to Western Australia rather than Van Diemen's Land. There were no women transported to Western Australia and few Irish. Rudé calculated that the number of arsonists transported from Britain to

⁸² *Limerick Reporter* 25 July 1845 p.1 col.1.

⁸³ *Limerick Reporter* 25 July 1845 p.1 col.1.

⁸⁴ *Limerick Reporter* 25 July 1845 p.1 col.1.

⁸⁵ *Limerick Reporter* 25 July 1845 p.1 col.1.

⁸⁶ AOT, CON 33/75 and CON 14/35 Tim Mulcahy *Samuel Boddington* 1846 No.17556.

Western Australia was high: a total of 361, an average of twenty each year.⁸⁷ He concluded that it was impossible to tell, from the scanty information, how many of these British arsonists may have been protesters.

Rudé concluded that 'In the Irish case, as we have seen, rural protest-crimes, like cattle-maiming and arson, have no reason to be treated apart as they did not form movements of their own, as arson did in England in the 1840s and early 1850s.'⁸⁸ He added that the upsurge of protest in Clare, Mayo, Cork and Tipperary in the Famine years consisted of individual acts of anger and despair rather than part of an organised movement, 'nor should this surprise us as famine rarely acts as a stimulus to collective behaviour.'⁸⁹

Susan Allan suggested that women lied about political and social motives to avoid heavy sentences. Social and political offenders were treated more harshly by the courts and tended to receive longer sentences:

As this was a situation which understandably women would wish to avoid, it was in their best interests to say nothing or proffer an alternative motive for their actions rather than claim a social or political motive and risk receiving a heavier sentence. As James Moore has commented, "There are many reasons why convicts would lie".⁹⁰

There is, however, no evidence to support this interpretation.

As already noted, Williams argued that those women who had previous convictions – who were 'regular and hardened offenders' – could not be social or

⁸⁷ Rudé, *Protest and Punishment*, p.230. Only one was from Ireland.

⁸⁸ Rudé, *Protest and Punishment*, p.37.

⁸⁹ Rudé, *Protest and Punishment*, p.39.

⁹⁰ Allan, 'Irish Convicts', p.112. See also James F.H. Moore, *The Convicts of Van Diemen's Land*, Hobart, 1976, p.49.

political protesters.⁹¹ Williams arrived at this conclusion by arguing that, because most of the men who were social and political offenders were convicted on their first offence, women with multiple offences could not be social or political offenders.⁹² However, reliance on the evidence of previous convictions is fraught with difficulty, because of inconsistencies in the information. Details about prior convictions were noted in the register from the female convict depot, Grangegorman, as well as on the statement of offence, which was recorded on arrival, and the gaol report, which came with the convict. For the deliberate arsonists, and convict women generally, the three documents often contained discrepancies.⁹³ Usually the statement of offence record is higher.⁹⁴ In her 'statement of offence', Johanna Walsh admitted to one month and two months for breaking glass, and stated that she had lived six months by thieving. Her gaol report noted one previous conviction.⁹⁵ In some instances, a woman admitted to a previous offence or offences, but her gaol report recorded no previous convictions.⁹⁶ Discrepancies also occurred between the number of offences recorded on the conduct record and the indent.

⁹¹ Williams, *Ordered to the Island*, p.73.

⁹² Williams, *Ordered to the Island*, p.73.

⁹³ See, for example, arsonist Ann Thompson, who, in her statement of offence, admitted to being 9 times in prison. Her gaol report stated that she had been twice convicted: AOT, CON 41/33 Ann Thompson *John William Dare* 1852 No.370.

⁹⁴ See Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995, p.79: in her study, in most cases the documents tallied; where they differed, it was where the convict listed a higher number of prior convictions than the gaol report recorded.

⁹⁵ AOT, CON 41/22 and CON 15/5 Johanna Walsh *Maria* (2) 1849 No.795.

⁹⁶ See, for example, King's County arsonist, Mary Shanley, who admitted, in her statement of offence, to 4 previous convictions. Her gaol report, however, stated that the arson was her first conviction: AOT, CON 41/33 Mary Shanley *John William Dare* 1852 No.1036.

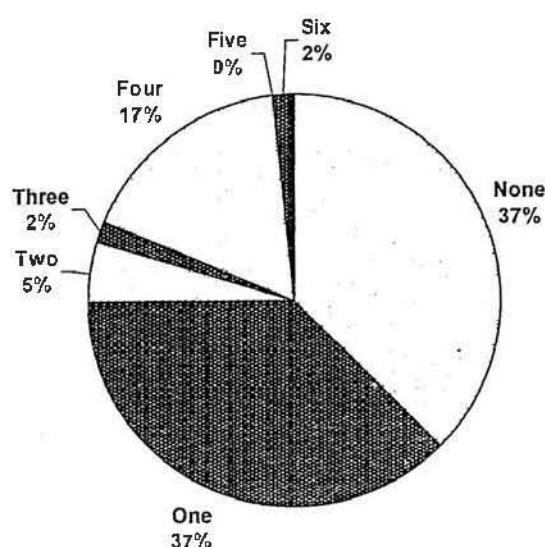


Figure 2: Number of previous convictions based on conduct record [n=79].

As demonstrated by Figure 2, few of the deliberate arsonists can be categorised as ‘regular and hardened offenders’, Williams’ term for those with multiple convictions. Williams did not define the term, and historians generally are divided as to when a multiple offender becomes an habitual offender. Alastair Davidson defined as habitual all those who had at least two prior convictions.⁹⁷ Using this definition, and based on information recorded from the gaol report, sixteen of the deliberate arsonists – 20 per cent – were habitual offenders. Only ten of the deliberate arsonists, however, according to the information contained on the gaol report on their conduct record, had more than three previous convictions:

⁹⁷ Alastair Davidson, ‘Convict Workers – a review’, *Australian Historical Studies*, Vol.23, No.93, October 1989, pp.480-481. Williams did not define the term by number of offences.

one had six previous convictions according to her gaol report,⁹⁸ and eleven women had four previous convictions.⁹⁹ Nineteen per cent of the deliberate arsonists can be defined as ‘regular and hardened offenders’: as such, according to Williams’ reasoning, they can therefore be excluded from being social or political offenders.¹⁰⁰ There is, however, some doubt as to the accuracy of the number of previous convictions.

In concluding that the female arsonists were not political or social offenders on the basis of the number of convictions, Williams generally did not address the type of offence. The number of convictions alone is relatively meaningless, particularly given that there is a significant inconsistency in the records of the number of previous offences between those recorded on the statement of offence and those recorded on the gaol report. It is more illuminating to consider the type of offence than the number of offences. Previous convictions among the Irish female arsonists ranged from forty-eight hours imprisonment for being drunk to more serious offences. Four deliberate arsonists had previous convictions for arson or arson-related offences.¹⁰¹ Wexford arsonist Margaret Foley had

⁹⁸ AOT, CON 41/35 and CON 15/7 Catherine Hayes *Martin Luther* 1852 No.947. No detail of the convictions was recorded. Hayes was a 27-year-old country servant from County Cork, whose husband, Michael, had been transported to Sydney.

⁹⁹ Several of those on the *Martin Luther* had 4 previous convictions but no detail of the type of offence has been recorded, and none of the women confessed to 4 convictions: see AOT, CON 41/35 *Martin Luther* 1852: Norry Bourke No.1197; Ellen Brien No.1196; Alice Griffith No.600; Mary Hennessy No.950; Ellen Murphy No.960; Eliza Roche No. 615; Alice Tobin No.379. Others with more than 3 convictions were: AOT, CON 41/20 Ellen Farrell *Lord Auckland* (3) 1849 No.401; AOT, CON 41/26 Maria Collister *Earl Grey* 1850 No.1077.

¹⁰⁰ Williams, *Ordered to the Island*, p.73.

¹⁰¹ At least 5 non-deliberate arsonists had arson-related previous convictions, including Cork arsonist Margaret Purcell, 10 weeks for threatening to burn the house which she later burned; Wicklow arsonist, Mary Hemes, who had served 18 months for arson; Queen’s County arsonist, Martha Dunlop, 6 months for arson; Limerick arsonist, Catherine Gearon, 3 months ‘for a small stack of hay’; and Galway arsonist, Mary King, 2 months for house burning. See AOT, CON 41/16 Margaret Purcell *John Calvin* 1848 No.366; AOT, CON 41/16 Mary Hemes *John Calvin*

previously served three months for burning straw.¹⁰² Margaret Lehane was twice discharged for threatening to burn before being transported for burning a hayrick.¹⁰³ Kildare arsonist Jane Armstrong had been discharged for attempting arson.¹⁰⁴ Galway arsonist Mary Ann Williams stated her offence to be burning straw and admitted to a previous sentence of three months for the same offence.¹⁰⁵ To summarise, there is no evidence to support Williams' claim that the Irish female arsonists were 'regular and persistent offenders' and therefore were not social or political protesters.¹⁰⁶

Williams, however, did use some specific types of previous convictions to suggest that a few women took part in at least some rural agitation.¹⁰⁷ He included in this category Margaret Lehane, transported on the *Blackfriar* in 1851; as already noted, she was twice discharged for threatening to burn before being transported for burning a hayrick.¹⁰⁸ There is not sufficient evidence on either her conduct record or her indent to determine whether the offence was part of rural agitation, as Williams suggested. The newspaper report of her trial simply stated that she pleaded guilty to setting fire to a hayrick, the property of Colthurst Brabazon Esq., and that she stated that she committed the offence in order to be transported.¹⁰⁹

1848 No.702; AOT, CON 41/33: Martha Dunlop *John William Dare* 1852 No.802; AOT, CON 41/28 Catherine Gearon *Duke of Cornwall* 1850 No.543; AOT, CON 41/28 Mary King *Duke of Cornwall* 1850 No.406.

¹⁰² AOT, CON 41/30 Margaret Foley *Blackfriar* 1851 No.489.

¹⁰³ AOT, CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484.

¹⁰⁴ AOT, CON 41/28 Jane Armstrong *Duke of Cornwall* 1850 No.259.

¹⁰⁵ AOT, CON 41/33 and CON 15/7 Mary A. Williams *John William Dare* 1852 No.950.

¹⁰⁶ Williams, *Ordered to the Island*, pp.73-74.

¹⁰⁷ Williams, *Ordered to the Island*, p.75.

¹⁰⁸ AOT, CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484; Williams, *Ordered to the Island*, p.75, refers to her as 'Lehanes'.

¹⁰⁹ *Cork Constitution* 2 July 1850 p.4 col.3: Margaret 'Nehane'.

Williams also included as likely participants in rural agitation those arsonists convicted previously of forms of 'wilful destruction'. Again, there is insufficient evidence on the convict records or indents to justify this conclusion. One of the women he cited had served time in prison for trespass, and another had been convicted for rioting.¹¹⁰ He also included some who had been involved in other forms of wilful destruction, such as breaking glass or windows. Because of the brevity of the records, it is difficult to ascertain the context in which the crime was committed, and so to ascribe a motive or intention. Furthermore, offences of wilful destruction were similar in a sense to arson, in that they were obvious and immediate if the offender's intention was to be caught.

Legally, a riot was an unlawful assembly of three or more persons assembled for an unlawful purpose, by a breach of the peace and to the terror of the public.¹¹¹ Only one Irish female arsonist appears to have had a previous conviction for a riot. Mary Dunne, tried in Queen's County in 1850, had a previous sentence of three weeks 'for a riot'.¹¹² Unfortunately, there is no more information about the offence and it is impossible to conclude, as Williams did, that it was part of rural agitation.

¹¹⁰ AOT, CON 41/30 Mary Dunne *Blackfriar* 1851 No.762: Mary Dunne was convicted for rioting. Bridget Dunne, who was tried with her, had a previous conviction for stealing metal.

¹¹¹ *Butterworth's Concise Legal Dictionary*, 3rd edition, pp.382-383.

¹¹² AOT, CON 41/30 Mary Dunne *Blackfriar* 1851 No.762. Bridget Dunne, who was tried with her, had a previous conviction for stealing metal: see AOT, CON 41/30 Bridget Dunne *Blackfriar* 1851 No.761.

Breaking glass and trespass were also forms of rural agitation.¹¹³ Four arsonists (including one deliberate arsonist) admitted to previous convictions for trespass, and another was acquitted of a trespass.¹¹⁴ Again, the brevity of the information on the convict records does not allow for conclusions about the context and motive of the crime.

Fifteen of the Irish female arsonists admitted to previous convictions for breaking windows or glass. In only one instance was the location of the window identified, and this was the union, or workhouse.¹¹⁵ Some had more than one previous conviction for breaking windows or glass. Deliberate arsonist, Catherine Cullinane, tried in Cork in 1848, admitted to two previous convictions for breaking glass; she served two months and twelve months.¹¹⁶ Another deliberate arsonist, Catharine Byrne, tried in Wexford in 1851, had two previous convictions for breaking glass, for one month and two months.¹¹⁷ Johanna Walsh also admitted to two previous offences for breaking glass, as well as to living six months by thieving – in her case, the glass-breaking may have been related to

¹¹³ Williams, *Ordered to the Island* p.75: Williams named Bridget Haines, imprisoned 2 months for breaking glass and Ellen McNamara, 1 month for breaking a window. See AOT, CON 41/30 Ellen McNamara *Blackfriar* 1851: her convict records give no indication of her motivation; it simply may have been wilful destruction.

¹¹⁴ AOT, CON 41/33 Mary Browne *John William Dare* 1852 No.1159 (served 7 days, Kildare); AOT, CON 41/33 Emily Johnson *John William Dare* 1852 No.428 (6 weeks, Kildare); AOT, CON 41/33 Winifred Connors *John William Dare* 1852 No.1221 (1 month, Galway); AOT, CON 41/33 Eleanor Murphy *John William Dare* 1852 No.1351 (acquitted, Waterford).

¹¹⁵ AOT, CON 41/35 Anne Quinan or Guinan *Martin Luther* 1851 No.46: served 1 month for breaking union windows.

¹¹⁶ AOT, CON 41/20 Catherine Cullinane *Lord Auckland* (2) 1849 No.935. AOT, CON 15/5 noted, however, that she had served 1 month for breaking glass and that she had been 12 months 'on the town'.

¹¹⁷ AOT, CON 41/33 Catharine Byrne *John William Dare* 1852 No.1168.

theft.¹¹⁸ Two deliberate arsonists admitted to a single previous conviction for glass.¹¹⁹

Breaking glass, like other offences of wilful destruction and arson, was immediate and obvious if the intention was to be caught. In Queen's County in 1849, for example, it was noted that:

Window breaking has become prevalent in Maryboro. Strolling beggars when passing through the town smash a pane of glass or two in the vicinity of the police barracks, for the purpose of getting into gaol for a short time. In Baltinglass a check was put to window breakers, by keeping the offenders in solitary confinement.¹²⁰

Two women in Dublin in 1851 smashed windows and waited until a constable arrived so they could be arrested 'and sent to prison, where they wanted to be supported'.¹²¹ A lawyer defending three men in Galway who broke windows in order to get into gaol claimed that they had 'a right to smash windows because they were paupers'.¹²² It is therefore difficult to categorize window-breaking definitively as a part of rural agitation.¹²³

¹¹⁸ AOT, CON 41/22 and CON 15/5 Johanna Walsh *Maria* (2) 1849 No.795.

¹¹⁹ AOT, CON 41/20 Mary Paid *Lord Auckland* (2) 1849 No.391: her gaol report, however, noted that she had never been convicted before; CON 41/30 Bridget Bryan *Blackfriar* 1851 No.1105: her gaol report also noted that she had never been convicted before. Eight of the arsonists overall, according to their conduct records, admitted to a single conviction for glass. They included: AOT, CON 41/28 Mary Brady (alias Bridget McGrath) *Duke of Cornwall* 1850 No.1070; AOT, CON 41/16 Mary Walsh 1st *John Calvin* 1848 No.727; AOT, CON 41/30 Mary Haurahan *Blackfriar* 1851 No.892 and Ellen Haurahan *Blackfriar* 1851 No.893, who were sisters; AOT, CON 41/30 Ellen Quinn *Blackfriar* 1851 No.39; AOT, CON 41/33 Mary Shanley *John William Dare* 1852 No.1036.

¹²⁰ *Leinster Express* 2 June 1849 p.2 col.6.

¹²¹ *Freeman's Journal* 18 November 1851 p.3 col.5: Catherine Berry and Mary Gibson Berry. See also *Tipperary Free Press* 29 October 1851 p.1 col.4: Mary Fitzgerald.

¹²² *Freeman's Journal* 3 January 1851 p.3 col.6.

¹²³ Breaking glass was also associated with food-stealing: see Cormac Ó Gráda, *Black '47 and Beyond: the Great Irish Famine in History, Economy and Memory*, Princeton, 1999, p.41.

Assault was another possible indicator of rural agitation. While the majority of the male arsonists who admitted to previous convictions had been imprisoned for assault,¹²⁴ only a handful of women were similarly charged.¹²⁵ Deliberate arsonist Catherine Connors, tried in Clare in 1848, admitted to one previous conviction of six weeks for an assault.¹²⁶ Some of those with a previous conviction for assault also had a previous conviction for glass.¹²⁷ Bridget Dooling, tried in Waterford in 1849, admitted to two months for assault and rescue as well as one month for glass breaking.¹²⁸ Again, there is no additional information to explain the nature of, or reason for, the assault.

To summarise, although some of the Irish female arsonists had previous convictions consistent with offences committed as part of rural agitation, there is no evidence that they were actually participating in rural protest. Most of the previous offences were consistent with those of other female convicts – that is, the majority were for larceny and were crimes against property, or public order

¹²⁴ AOT, CON 33/75 and CON 14/35 Tim Mulcahy *Samuel Boddington* 1846 No.17556 (1month); AOT, CON 33/100 and CON 14/43 Robert Drew *Hyderabad* (3) 1850 No.23569 (2 months) AOT, CON 33/101 and CON 14/42 Michael McCarthy *London* (2) 1851 No.23936 (1 month); AOT, CON 33/58 and CON 14/23 Pat McCormack 2nd *Cadet* (1) 1844 No.13744 (2 months); AOT, CON 33/51 and CON 14/26 David Lynch *Maitland* 1844 No.12032 (6 months).

¹²⁵ AOT, CON 41/33 Ann Thompson *John William Dare* 1852 No.370 (tried Queen's County, admitted to 9 times in prison, including 6 months for clothes, 3 months for a mantle, 1 month for potatoes and 3 weeks for assault); AOT, CON 41/26 Anne Carton *Earl Grey* 1850 No.1076 (tried Wexford, admitted to 3 months for an assault, and 1 month for a petticoat); AOT, CON 41/5 and CON 15/3 Mary Mulhair *Phoebe* 1845 No.556. Mary Mulhair, tried in 1844, had 1 previous conviction of 6 months for an assault. She appears to be the only arsonist with a previous conviction for assault tried for a similar offence in Van Diemen's Land: in 1860 she was charged with shooting with intent to kill: *Mercury* 2 January 1860 p.2 col.7; 19 April 1860 p.2 cols.7-8.

¹²⁶ AOT, CON 41/29 Catherine Connors *Lord Auckland* (3) 1849 No.934.

¹²⁷ AOT, CON 41/33 Mary Shanley *John William Dare* 1852 No.1036: admitted to several previous offences (2 months for a shawl, 1 for glass, 1 month for a petticoat, and 1 month for assault).

¹²⁸ AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682. Legally, rescue is the taking of a person or thing out of legal custody: *The CCH Macquarie Dictionary of Law*, 2nd edition, p.150.

offences, such as drunkenness.¹²⁹ For the deliberate arsonists, like the Irish female arsonists generally, the majority of previous convictions – 59 per cent – were stealing, as shown in Figure 3.¹³⁰

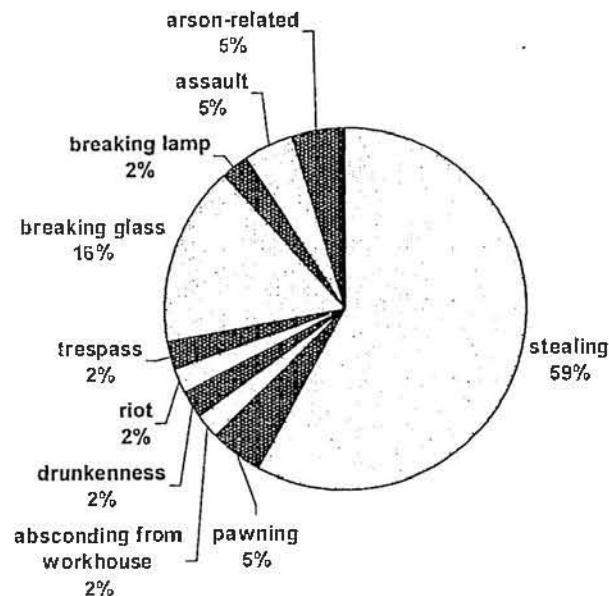


Figure 3: Previous convictions by type for deliberate arsonists based on conduct record [n=43].

As can be seen from Figure 4, two-fifths of the deliberate arsonists had previous convictions for stealing food. Of the multiple offenders, Williams made exceptions for those arsonists who stole food, suggesting that they were not persistent and hardened offenders.¹³¹ This line of arguing reflects Williams' concern with the criminality of the women – whether they were really 'criminals'

¹²⁹ Reid, 'Work, Sexuality and Resistance', p.83: 26.4% of prior convictions were public order offences, including disorderly or riotous conduct (9.2%), drunkenness (7.3%) and vagrancy (7%).

¹³⁰ In most cases, the type and quantity of clothes are not specified. Some admitted to stealing wearing apparel: a gown, a frock, a dress, a coat, a cloak, a shawl, mantle, petticoat. There were 4 previous offences for shoes and boots and 4 for stealing workhouse clothes or clothes from the Union.

¹³¹ Williams, *Ordered to the Island*, p.73.

or basically ‘good’ women who were victims of circumstance. However, as Reid highlighted, relief of immediate distress cannot be assumed as a motive for crime, even in the case of food.¹³² Interestingly, several of the Irish male arsonists had previous convictions for stealing food, yet this was not used to discredit them as participants in rural agitation.¹³³

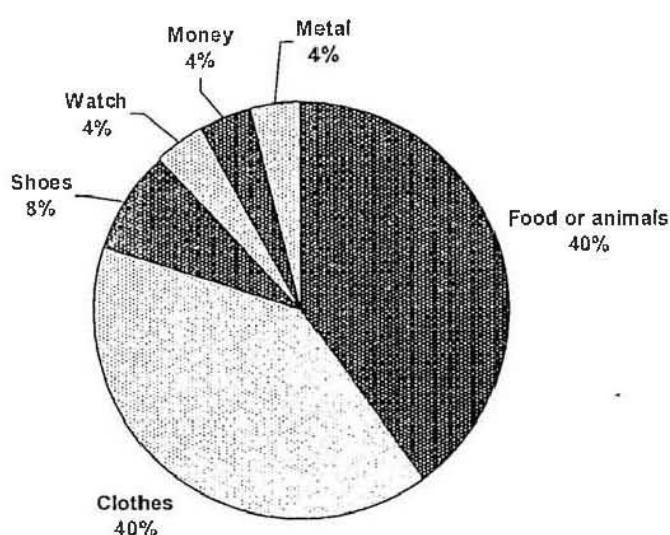


Figure 4: Breakdown of stealing convictions for deliberate arsonists [n=25].

There is no justification for Williams’ argument that women who had previous convictions – the ‘regular and hardened offenders’ – could not be social or

¹³² Reid, ‘Work, Sexuality and Resistance’, pp.63-69.

¹³³ AOT, CON 33/65 and CON 14/20 James Connell *Elizabeth & Henry* 1845 No.15396: Connell, tried in Tipperary in 1844, stated he had been sent to prison for stealing potatoes but after three months in prison he was acquitted. He was later executed for arson in Van Diemen’s Land; AOT, CON 33/101 and CON 14/42 Thomas Naughton *London* 1851 No.23987 (sheepstealing, 1 month); AOT, CON 33/101 and CON 14/42 Thomas Riordan *London* 1851 No.24012 (sheep, 3 months; breaking windows, 2 months); AOT, CON 33/112 and CON 14/32 Patrick Conolly *Lord Auckland* (4) 1853 No.27042 (sheepstealing, nine months).

political protesters.¹³⁴ Consideration of the number of previous convictions alone, and not the type of offence and the context in which it was committed, is relatively futile. Nor is there evidence to support Williams' contention that, on the basis of previous convictions, some of the Irish female arsonists took part in rural agitation.¹³⁵ It is true that some of the women had previous convictions such as trespass and breaking glass but there is no evidence that these were related to rural agitation. As was shown in Figure 2, overall, 63 per cent of the deliberate arsonists had previous convictions, but most were single offences: 79 per cent had one conviction or less. The paucity of information on convict records rarely allows for sustained conclusions about the context and motive of the crime.

Rudé and Williams also argued that the Irish female arsonists could not be considered even marginal social protesters on the grounds that they did not know the names of their prosecutors, and that the arson they committed was directed against no one in particular.¹³⁶ In other words, if the women could not name a prosecutor, or victim, they could not have been protesting. There are two important elements here: could women be involved in protest if they did not know whose property they burned? If the women knew whose property it was, is it more likely to have been protest? Protest, presumably, needs to be directed at someone or some organisation.

¹³⁴ Williams, *Ordered to the Island*, p.73.

¹³⁵ Williams, *Ordered to the Island*, p.75.

¹³⁶ Rudé, *Protest and Punishment*, pp.4-5, 147; Williams, *Ordered to the Island* pp.74-75. See also Davis, 'Not So Bad as a Bad Marriage'.

To dismiss the Irish female arsonists as even marginal social protesters because the women could not name their prosecutors, as Rudé and Williams have done, does not stand scrutiny.¹³⁷ Neither Rudé nor Williams gave examples or appeared to have looked closely at the evidence. Many of the Irish female arsonists named prosecutors.¹³⁸ In many cases, however, the evidence regarding the prosecutor is conflicting, as demonstrated by those groups of women who were charged for the same offence and tried together but who named different prosecutors.¹³⁹ Williams' argument that the arson was directed against no one in particular appears to be true, at least for all of the deliberate arsonists. It does not provide evidence, however, that the women were not social protesters. Williams arrived at what seems to be the right conclusion – that the women were not social or political protesters – but for the wrong reasons.

An examination of the objects burned by the Irish female arsonists does not provide evidence that they were motivated by protest. Among the deliberate arsonists, as demonstrated in Figure 5, most chose to burn houses, although some burned wheat, straw, oats, and hayricks. Rosanna Berry burned a schoolhouse and Jane Allen burned a poorhouse.¹⁴⁰ Objects appear to have been chosen because of ready-flammability, location and visibility. To conclude, scrutiny of

¹³⁷ Rudé, *Protest and Punishment*, pp.5, 147; Williams, *Ordered to the Island*, pp.74-75.

¹³⁸ Among the Irish female arsonists, there were several who named their prosecutor: see, for example, *Leinster Express* 4 August 1849 p.3 col.5 and AOT, CON 41/26 Judith Huskisson *Earl Grey* 1850 No. 834; *Freeman's Journal* 18 March 1850 p.4 col.1 and AOT, CON 41/30 Honor Farrell *Blackfriar* 1851 No.481; *Limerick Reporter* 19 July 1850 p.3 col.1 and AOT, CON 41/30 Mary Lynch *Blackfriar* 1851 No.493; *Wexford Independent* 17 July 1850 and CON 41/30 Margaret Connors *Blackfriar* 1851 No.1168; CON 41/30 Ellen Lyons *Blackfriar* 1851 No.494.

¹³⁹ Clerical errors could be responsible for some of the conflicting information.

¹⁴⁰ AOT, CON 15/7 Rosanna Berry *Martin Luther* No.1198; AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272.

the objects burned provides no evidence either way that the Irish female arsonists were motivated by protest.

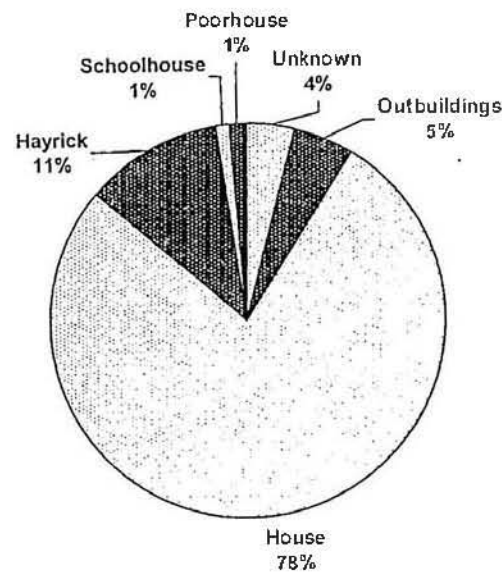


Figure 5: Objects burned by deliberate arsonists [n= 79].¹⁴¹

Reasons stated for committing arson

In some instances, the Irish female arsonists stated clearly why they had committed arson. There is one clear case of a woman committing arson in order to seek revenge because she was dispossessed of land. Margaret Doogan, a forty-year-old widowed country servant, was tried for arson in Clare in 1849.¹⁴² According to the report in the *Tipperary Vindicator*, Margaret Doogan was indicted for burning a cow house, the property of James O'Brien. Sentencing her to fifteen years' transportation, the judge remarked:

¹⁴¹ Hayrick includes objects such as hay, wheat and straw.

¹⁴² AOT, CON 41/26 and CON 15/7 Margaret Doogan *Earl Grey* 1850 No.700l.

the prisoner was not led to commit the crime through distress, but solely for revenge, in consequence of being dispossessed of land now in the possession of prosecutor; her punishment should therefore be heavy.¹⁴³

Margaret Purcell, a thirty-year-old country servant from Cork, was also motivated by revenge, stating that she had burned a house, 'the property of the father of my child. I did it because he refused to support my child'.¹⁴⁴ She had three previous convictions including one of ten weeks for threatening to burn the house she eventually burned.¹⁴⁵

Some cases of arson were generated as revenge for the transportation of a family member. Bridget Murphy, who arrived on the *Mexborough* in 1841, stated that, with Mary 'Leary', she had set fire to a house and that she had done so 'in consequence of the prosecutor having transported my brother'.¹⁴⁶ Murphy added that she was married and that her husband had been transported two years previously, but there is no suggestion that this was why she committed arson.¹⁴⁷ Her sister, Mary Lahy, stated that her offence was housebreaking and added that she had been tried with her sister Bridget Murphy 'on board' and her brother.¹⁴⁸ This case is another highlighting the confusion caused by inconsistencies in evidence and recording.

¹⁴³ *Tipperary Vindicator* 11 July 1849 p.3 col.2. See also *Leinster Express* 4 July 1849 p.4 col.7. Doogan was tried with Neil Brogan, who died after his committal to gaol.

¹⁴⁴ AOT, CON 15/4 Margaret Purcell *John Calvin* 1848 No.366. Her son, William Callaghan, came with her to Van Diemen's Land.

¹⁴⁵ AOT, CON 15/4 Margaret Purcell *John Calvin* 1848 No.366. The other offences were for stealing a petticoat (1 month) and assault (3 weeks.)

¹⁴⁶ AOT, CON 40/6 and CON 19/3 Bridget Murphy *Mexborough* 1841 No.372; AOT, CON 40/6 and CON 19/3 Mary Lahy *Mexborough* 1841 No.240. Mary 'Leary' was transported as Mary Lahy.

¹⁴⁷ AOT, CON 40/6 and CON 19/3 Bridget Murphy *Mexborough* 1841 No.372.

¹⁴⁸ AOT, CON 40/6 and CON 19/3 Mary Lahy *Mexborough* 1841 No.240. She was transported for arson.

Sisters Sarah Burke and Winfred Harte attempted to set fire to the house of the woman responsible for the transportation of their brother. In March 1849, the *Freeman's Journal* reported that:

Sarah Burke, an ugly old woman, and Winfred Harte, a pretty young girl, were indicted for having set fire to the house of Catherine Sheedy at Deerpark, on the night of the 25th September, 1848.

The prisoners were sisters, and a relative of Mrs. Sheedy's had prosecuted their brother for some offence, for which he was transported. Prisoner Burke frequently threatened to be revenged upon Mrs. Sheedy, and on the night in question both prisoners were seen at Mr. Sheedy's house, and the prisoner Burke was seen putting fire into the thatch which blazed up, but was soon extinguished.

The prisoners urged that the witnesses for the Crown having been well paid in the former prosecution against their brother had fabricated this case in order to obtain money.

The jury convicted Burke, and acquitted the other prisoner.¹⁴⁹

Sarah Burke was sentenced to transportation for seven years; she arrived on the *Australasia* in 1849.¹⁵⁰ Another sister, Mary Harte, was also tried for arson, in July 1849, and was sentenced to transportation for ten years. She stated her offence to be burning a house; her prosecutor was 'Shady' in Clare.¹⁵¹ According to a newspaper report, she was tried with three others for 'maliciously burning an outhouse, the property of Catherine Sheedy, at Deerpark, on the 26th March last'.¹⁵²

Other arson cases were the result of more personal revenge. In 1852, Mary Kerrigan, confessed to arson in County Galway, and was sentenced to death,

¹⁴⁹ *Freeman's Journal* 10 March 1849 p.4 col.6.

¹⁵⁰ AOT, CON 41/24 Sarah Burke *Australasia* 1849 No.999.

¹⁵¹ AOT, CON 41/26 Mary Harte 1st *Earl Grey* 1850 No.829.

¹⁵² *Clare Journal* 9 July 1849 p.2 col.2. The others (Margaret Halpin, Catherine Looney Senior and Junior) were all acquitted. The same edition also reports that Anne Looney was indicted for burning the dwelling house of Anthony Sheedy, of Deerpark, on 10 March; she was found guilty and sentenced to 2 years imprisonment with hard labour. See also *Leinster Express* 4 July 1849 p.4 col.7; *Tipperary Vindicator* 11 July 1849 p.3 col.2.

because the house she set fire to was occupied. Her sentence was commuted to transportation for life after she was given an excellent character by the Resident Magistrate.¹⁵³ According to evidence submitted at her trial:

Mary Kerrigan, a young and rather respectable looking country girl, was indicted for setting fire to the house of Mr. James Mannion.

James Mannion examined ... Recollects the 15th of May; was in bed in the house that night with his family; his wife awoke him and saw the house on fire ...

Bridget Connolly swore that she heard the prisoner say that she would be revenged dead or alive; she was bespoke by Mannion's son; the opposition she received from the parents of the young man was the cause of her burning the house.¹⁵⁴

Winifred Connor, charged with 'feloniously setting fire to a cock of hay' in Galway was convicted on the evidence of a ten-year-old boy who testified that he remembered:

Winney Connor coming to his fathers [sic] house about twelve o'clock in the day; she pulled some potatoes from her pocket and roasted them; she then took a coal of fire and said 'she would not stop till she had burned Mr. Darcy's hay', she had it in for him as he had her two months in gaol.¹⁵⁵

The example of Mary Burns, who arrived in Van Diemen's Land in 1845, illustrates the difficulty of ascribing motive. In this case, labelled by newspapers as the 'Adare Conspiracy', the motives of the protagonists were complex and it is difficult to categorise the case, but there is no doubt that those involved knew exactly whose property was set on fire.¹⁵⁶ Burns and two men were tried in 1844, charged with conspiracy and setting fire to the stables of Lord Dunraven.¹⁵⁷

¹⁵³ NAI, GPO TR12 p.213; *Freeman's Journal* 17 July 1852 p.4 cols.4-5; *Galway Mercury* 17 July 1852 p.3 col.1; *Galway Vindicator* 14 July 1852 p.2 cols.5-6.

¹⁵⁴ *Galway Mercury* 17 July 1852 p.3 col.1.

¹⁵⁵ *Galway Vindicator* 19 March 1851 p.1 col.4.

¹⁵⁶ AOT, CON 41/5 and CON 15/3 Mary Burns *Phoebe* 1845 No.718: Mary Burns stated that she had been transported for setting fire to 'a gent's house'. See also *Limerick Reporter* 19 July 1844 p.2 cols.3-4, 23 July 1844 pp.1-2; *Freeman's Journal* 24 July 1844 p.1 col.5; AOT, CON 33/65

Other instances of arson are also difficult to categorise. This is particularly true of those cases involving Crown witnesses: those ‘nefarious swearers’¹⁵⁸ who turned informer or ‘approver’ for a monetary reward or a paid passage to America.¹⁵⁹ Some even received clothes in return for informing.¹⁶⁰ In March 1844, the *Roscommon and Leitrim Gazette* reported a typical case, tried at Roscommon Assizes:

two women, mother and daughter, were found guilty of perjury, and sentenced to seven years transportation. They had sworn against others for setting fire to their house, but enough transpired in the trial to lead to the belief that they themselves had done it.¹⁶¹

In March 1850, the *Limerick Reporter* commented on an arson case involving Crown witnesses:

A feeling of unmixed satisfaction was manifested in court at the conclusion of this revolting case. It is to be regretted, and has long been a cause of complaint in the counties of Limerick and Tipperary, that the class of witnesses known by the generic term ‘informers’ are so pampered, feasted and rewarded by the Crown, that some infamous wretches are induced to inveigle unsuspecting victims into crime, and then give information, or else swear against innocent persons, of which in this instance, they themselves have been solely guilty.¹⁶²

and CON 14/20 James O’Regan *Elizabeth & Henry* 1845 No.15512; AOT, CON 33/69 and CON 14/20 Thomas Looney *Ratcliffe* 1845 No.253.

¹⁵⁷ *Freeman’s Journal* 24 July 1844 p.1 col.5 (Limerick Assizes). The men’s names were recorded as James Regan and Thomas Looney. See also NAI, CSO Outrage Papers, 1844 Limerick. See also AOT, CON 33/65 and CON 14/20 James O’Regan *Elizabeth & Henry* 1845 No.15512 and CON 33/69 and CON 14/20 Thomas Looney *Ratcliffe* 1845 No.253: both were transported for life; O’Regan had a previous conviction of 2 months for firearms. Following the conviction of James O’Regan, his wife, Mary Regan, was brought before the court, charged with threatening arson.

¹⁵⁸ *Freeman’s Journal* 13 July 1850 p.4 col.2.

¹⁵⁹ See, for example, NAI, CSO Outrage Papers, 1844 Meath 22/13371, which detailed the burning of a house to gain a monetary reward as a witness, so that the perpetrator could afford to emigrate to America. See also NAI, CSO Outrage Papers, 1848 Cork 6/329 (11 March 1848); 1851 Kilkenny 14/89 (6 March 1851) for passage to America; 1851 Limerick 17/118.

¹⁶⁰ NAI, CSO Outrage Papers 1848 Clare 5/115 (24 December 1848); 5/110 (28 December 1848).

¹⁶¹ *Roscommon and Leitrim Gazette*, 30 March 1844 p.2 col.1.

¹⁶² *Limerick Reporter*, 15 March 1850 p.4 col.2.

In some instances, the arsonist blamed someone else in an attempt to get a reward.

In 1851, in Limerick, Mr Justice Jackson commented:

There were three trials for perjury, all very tedious in their details, and exhibiting in a strong light the unfortunate condition to which districts are reduced. Each of the persons tried had been in a starving condition, and had been induced through the impulse of self-preservation, and to obtain subsistence from the police as witnesses, had not only come forward to swear to the truth of fabricated charges, but had actually been guilty of house-burning and other atrocious crimes in order to lay a foundation for accusing innocent persons. In each case, the prisoner was convicted, and, after a most solemn address by the jury, sent to seven years transportation.¹⁶³

Judge Jackson added that there were five similar cases remaining for trial, and that this had been commonplace in the county for several years.¹⁶⁴

A particularly complex arson case tried in Cork in 1849 demonstrates how establishing the truth was complicated by the involvement of paid Crown witnesses. Mary Connors 1st alias Donovan, a sixteen-year-old nurse, was sentenced to transportation for life for arson. She stated her offence to be burning a house; her prosecutor was Magrath.¹⁶⁵ She was convicted on the evidence of another woman, Ann Donovan, also called Ann Granger alias Donovan. A Crown witness, Ann claimed that Mary had acted alone. This was despite evidence of another witness, Margaret Magrath, a daughter of the house, who claimed both women were involved.¹⁶⁶ Another three witnesses testified to seeing the two girls in the vicinity, but did not see them start the fire.¹⁶⁷ In her evidence, Ann claimed

¹⁶³ *Freeman's Journal*, 1 March 1851 p.3 col.5.

¹⁶⁴ *Freeman's Journal*, 1 March 1851 p.3 col.5.

¹⁶⁵ AOT, CON 41/26 Mary Connors alias Donovan *Earl Grey* 1850 No.1053.

¹⁶⁶ NAI, CSO Papers, 1849 Cork 6/480 (16 June 1849): evidence of Margaret Magrath.

¹⁶⁷ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Dennis Buckley and Thomas Keefe; NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Honora Barry.

that she was not a sister to Mary. She said that she had been visiting her uncle; Mary had offered to come with her, and she could not prevent her:

my reason for remaining about the place was that some time before that Mary Connors got fire in a rag in some house upon the Cork Road, and said that she would set fire to some house. I asked her for what. She said she did not care as she was determined to do mischief. She then brought the fire down and put in Darby Magrath's house.¹⁶⁸

Ann claimed that she gave the alarm and saved the people in the house from burning. Another witness testified that:

about night fall I was sitting by the fire when a strange girl came into the house and asked to light a rag – she said there was another girl outside who wanted to light her pipe – I noticed that she tore a piece of the rag but I cannot say if she did so before or after she had lighted it.¹⁶⁹

The rag used to start the fire matched Mary's dress.¹⁷⁰ In her defence, Mary stated that her name was Donovan and not Connors, and that she was 'sister to the other prisoner Ann Donovan':

We live in Capwell in the City of Cork. We left Capwell yesterday morning at 4 o'clock and walked to Youghal which we reached at one o'clock. We wanted to see our uncle, Donovan. I think his name is C... [illegible] but of this I am not sure as I never but once saw him. When we went to Youghal my sister went to see her uncle and left me sitting at the corner of a street as she was ashamed to take me with her. She remained away three hours – In her absence I got something to eat, as I had sixpence, she came back and said that she saw her uncle and that he was very well and asked for all at home. We then left Youghal at 4 o'clock and came to Midleton, on our way home we set the fire.¹⁷¹

Other documents contained in the Outrage Papers concerning this case noted that 'two strolling prostitutes from the other side of Cork' had been committed to the Bridewell in June 1849. One described Mary as 'a girl of the most reckless and depraved habits, who has often been the inmate of a prison although not more

¹⁶⁸ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Ann Grainger alias Donovan.

¹⁶⁹ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Johanna Roche.

¹⁷⁰ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Constable John Fitzgerald.

¹⁷¹ NAI, CSO Outrage Papers, 1849 Cork (16 June 1849): evidence of Mary Donovan alias Mary Connors.

than 18 years of age'.¹⁷² The other girl was considered to be less guilty, and was believed to have saved the inmates of the house. She was encouraged to be a Crown witness, 'to ensure beyond a doubt the conviction of her more guilty partner'.¹⁷³ The *Cork Examiner* noted:

Mary Donovan alias Connors, and Jane [sic] Donovan, alias Grainger, were charged with setting fire to the dwelling-house of Jeremiah McGrath, at Water-rock, near Midleton. Mary Donovan pleaded guilty.

Mr. Nagle, the Crown prosecutor, informed the Court that the Crown did not wish to go on with the prosecution against Anne Donovan, as from several circumstances that came to his knowledge, he was satisfied that she merely was in company with the prisoner who pleaded guilty; and endeavoured to prevent her from setting fire to the house, but without avail – that the ends of justice would be satisfied by the punishment of Connors, who in reality was the guilty one.¹⁷⁴

The Court directed the jury to acquit Ann and sentenced Mary to transportation for life. The only indication of motivation for Mary is from Ann's evidence – that Mary was 'determined to do mischief'.¹⁷⁵ Most of the evidence against her was circumstantial. Yet the determining factor in the case seems to be Ann's role as informant and Crown witness.

Clearly, the motivations of the women who committed arson were not always clear-cut or explicit. Furthermore, the context of the crime is complicated by the existence of witnesses motivated by reward rather than the pursuit of truth. The response by historians such as Rudé and Williams is too simplistic.

¹⁷² NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849).

¹⁷³ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849).

¹⁷⁴ *Cork Examiner* 9 July 1849 p.3 col.3.

¹⁷⁵ NAI, CSO Outrage Papers, 1849 Cork 6/480 (16 June 1849): evidence of Ann Grainger alias Donovan.

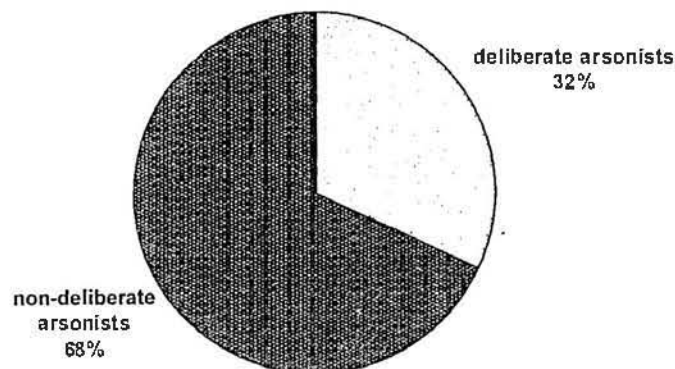


Figure 6: Proportion of deliberate arsonists to non-deliberate Irish female arsonists [n = 248].

Overall, as shown in Figure 6, 32 per cent of Irish female arsonists indicated that they committed arson in order to be transported. Not all of these gave reasons for deliberately committing arson. Six clearly stated that they wished to join a family member or loved one: Margaret Leary wanted to join her father, who was in New South Wales;¹⁷⁶ Ellen Murphy wanted to join her transported mother, Elizabeth Brennan;¹⁷⁷ Mary Nolan alias Butler wanted to join her transported daughter, Peggy Butler;¹⁷⁸ Ellen Farrell wanted to join her sister, who was ‘in this

¹⁷⁶ AOT, CON 41/19 and CON 15/5 Margaret Leary *Kinnear* (2) 1848 No.405.

¹⁷⁷ AOT, CON 41/20 and CON 15/5 Ellen Murphy *Lord Auckland* (3) 1849 No.960. They arrived on the same ship.

¹⁷⁸ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. For her daughter, see AOT, CON 41/26 and CON 15/6 Margaret Butler *Earl Grey* 1850 No.1048.

colony’;¹⁷⁹ and Margaret Behan wanted to join John Tracey, also transported.¹⁸⁰ Two stated that they wanted to improve their conditions.¹⁸¹

Arson and female criminality

In order to understand the prevalence of the Irish female arsonists, it helps to look at arson in a context of female criminality. It is obvious, from the statistical preponderance of female arsonists in Ireland from the mid-1840s to the early 1850s, that arson was a gendered crime.¹⁸² Yet it was not a typical female crime – it did not conform to traditional theories of female criminality. Traditionally, it has been argued that there are fundamental differences in the criminality of men and women, based on their innate nature. In Ireland, from the mid-1840s, arson was essentially a rural crime, committed by individuals as well as those in groups. It is not easy to classify as a ‘typical’ female crime. Otto Pollak, drawing on studies of criminality in the United States, England, Germany, Austria, and Italy, concluded that arson was not sex-specific.¹⁸³

Jocelynn Scutt outlined four major theories of female criminality. The first was that women do not commit as many crimes as men, and that those who do commit crimes do so because they are physiologically like men. The second is that women commit as many crimes as men, but they are concealed, because women – being different from men – commit devious and concealable crimes. The third is that women who commit crimes do so because they reject the female role, want to

¹⁷⁹ AOT, CON 41/20 and CON 15/5 Ellen Farrell *Lord Auckland* (3) 1849 No.401.

¹⁸⁰ AOT, CON 41/26 and CON 15/6 Margaret Behan *Earl Grey* 1850 No.1044.

¹⁸¹ AOT, CON 41/36, CON 15/8 and CON 19/11 Catherine Duggan *Midlothian* 1853 No.841; AOT, CON 41/36 and CON 15/8 Margaret Bourke *Midlothian* 1853 No.1213.

¹⁸² See Chapter One, Figure 1.

¹⁸³ Otto Pollak, *The Criminality of Women*, New York, 1961, pp.87-88.

be men or like men, so act like men in adopting anti-social attitudes. Finally, the fourth theory identified by Scutt is that women who commit crimes do so in accordance with full adoption of their sex role (different from the male role), committing crimes which are an extension of the legitimate female role – such as prostitution, shoplifting, domestic theft, child abuse, and welfare cheating.¹⁸⁴ To these can be added two more theories: fifthly, that women commit crime in response to economic hardship; and, sixthly, that there is no intrinsic female criminality.

In 1895, Lombroso and Ferrero, in their pioneering study of female criminality, argued that women are congenitally less inclined to crime than men. Women who commit crime do so because, physiologically, they are like men. Generally, women do not commit crime because of their intrinsic ‘femaleness.’ It is not in the makeup of women to be criminal, and so the female criminal is biologically or sexually abnormal.¹⁸⁵ In terms of this theory, then, those women who committed arson did so because they were like men. This does not help to explain why more women than men were convicted of this crime in Ireland from the mid-1840s to the mid-1850s.

In 1961, Pollak, noting the under-representation of women in crime statistics, suggested that this was because women were psychologically and culturally predisposed towards dissimulation and so the crimes that women committed were

¹⁸⁴ Jocelyne Scutt, ‘Crime and Sexual Politics’, in Elizabeth Windschuttle (ed.), *Women, Class and History. Feminist Perspectives on Australia 1788-1978*, Melbourne, 1980, pp.533-534.

¹⁸⁵ C. Lombroso, *The Female Criminal*, New York, 1958; originally published 1898.

usually petty and difficult to detect.¹⁸⁶ Pollak concluded that '[i]n our male-dominated culture, women have always been considered strange, secretive and sometimes as dangerous.'¹⁸⁷ Women were not less criminal, as Lombroso postulated, but their crimes were masked, in three ways: by the under-reporting of offences; by lower detection rates; and by the greater leniency shown by courts to women.¹⁸⁸ (Ironically, in the case of the Irish female arsonists, it has been argued that a compassionate legal system convicted the women, rather than let them go: historian of Tasmania, John West, for example, suggested that 'The penalty [of transportation] has been inflicted for the lighter crimes; and in many instances the Irish courts must have been influenced rather by a vague notion of humanity than of punishing'.)¹⁸⁹

In certain crimes such as arson, Pollak argued, women also confined themselves to auxiliary roles and so remained undetected to an even higher degree than usual.¹⁹⁰ Certainly, arson did not require innate strength but it was not a petty crime. It is true that arson can be difficult to detect, but, unlike other 'masked' female crimes such as poisoning, it is also a crime where detection is easy if desired. For those women who stated that they deliberately committed the crime in order to be transported, there was no attempt at masking or concealing the crime. Pollak's theory, clearly, does not apply to the deliberate arsonists.

¹⁸⁶ Pollak, *The Criminality of Women*, Ch.1 and p.151.

¹⁸⁷ Pollak, *The Criminality of Women*, p.149.

¹⁸⁸ Pollak, *The Criminality of Women*, pp.1-4.

¹⁸⁹ A.G.L. Shaw (ed.), *John West, The History of Tasmania*, Angus & Robertson, first published 1852, 1981 edition. On this point generally, see Oxley, *Convict Maids*, p.136.

¹⁹⁰ Pollak, *The Criminality of Women*, p.88.

Pollak also drew on early nineteenth-century European case material which suggested that arson (and homicide) may be causally related to menstruation.¹⁹¹ He asserted that arson is a crime with a largely emotional basis, and that 'the turmoil of the onset of menstruation and the puberty of girls appears to express itself in the relatively high frequency of false accusations and – where cultural opportunities permit – of incendiarism'.¹⁹² Carol Smart, in *Women, Crime and Criminology*, criticised Pollak's search for a single causal factor in female crime, arguing that '[i]t is also indicative of a certain attitude towards women which infers that simple, biologically-based, causal factors can explain the motivation and reasoning of complex, culturally located and socially meaningful acts.'¹⁹³ Again, Pollak's physiological theory does not add to an understanding of the deliberate arsonists. Furthermore, the women were calculated in their use of arson: it was not primarily an emotional response.

J.M. Beattie, in 'The Criminality of Women in Eighteenth-Century England', tested Pollak's findings about female criminality by examining a number of crimes dealt with in the principal courts of two English counties, Surrey and Sussex, between 1663 and 1802.¹⁹⁴ Beattie rejected the idea that women committed fewer offences than men and that they committed them with less violence and aggression because they were physically weaker. According to Beattie, women rarely used force or the threat of force because 'women's crime

¹⁹¹ Pollak, *The Criminality of Women*, pp.129-130. The research he refers to is Kurt Boas, 'Forensisch-psychiatrische Kasuistik I', *Archiv für Kriminal-Anthropologie*, XXXV (1909), 227; Cesare Lombrosi and Guglielmo Ferrero, *Das Weib als Verbrecherin und Prostituierte*, Hamburg, 1894, p.364; S. Icard, *La Femme pendant la Période Menstruelle*, Paris, 1890, pp.145, 170-72.

¹⁹² Pollak, *The Criminality of Women*, pp.133-134, 158.

¹⁹³ Carol Smart, *Women, Crime and Criminology: A Feminist Critique*, London, 1976, p.52.

¹⁹⁴ J.M. Beattie, 'The Criminality of Women in Eighteenth-Century England', *Journal of Social History*, Summer 1975, Vol.8, pp.80-116.

tended ... to be rather less direct, less open, risking less of a confrontation with the victim.¹⁹⁵ Beattie, offering a partial explanation, suggested that where differences existed, this was fundamentally because of the place of women in society; the patterns and levels of women's crime reflected their relationship to the wider community.¹⁹⁶

Beattie also discovered significant differences in the extent of women's crime, against property and person, in urban parishes, market towns and rural parishes, and explained this partly as the result of differences in social and economic situations.¹⁹⁷ Although Beattie's study found that both men and women committed more crimes in urban parishes than in rural areas, Beattie, interestingly, did not account for the difference between male urban and rural crime. He suggested that the rural-urban differentials in female convictions can be partly explained by the differences in population: the urban population grew more rapidly during this period; was younger; and had more women. Of greater significance, however, was the difference in the lives and circumstances of women in the city and country: in the smaller, more personal and deferential community of a rural parish, there was a greater degree of surveillance and control, and the figures of authority – the parson, and especially the magistrate – were 'more immediate and formidable.'¹⁹⁸ In a rural community, paternalistic controls might restrict behaviour, and, at the same time, they also provided more

¹⁹⁵ Beattie, 'The Criminality of Women', p.95.

¹⁹⁶ Beattie, 'The Criminality of Women', p.96.

¹⁹⁷ Beattie, 'The Criminality of Women', pp.96-97: in Surrey, almost 83% of crimes against the person committed by women took place in the northern urban parishes and only 17% in the rest of the county; for men, the urban-rural distribution was 68% to 32%. For crimes against property, 82% of offences took place in the city. For men, 66% of property offences were committed in the city. This pattern was confirmed by Beattie's study of Sussex.

¹⁹⁸ Beattie, 'The Criminality of Women', p.98.

cushions against adversity and more protections against extreme disaster. Beattie depicted rural women as relatively passive:

Women in rural parishes did not engage any more actively in malicious injury to property – arson, cattle-maiming, and similar acts of revenge – than in theft. Nor were they more prominent among those accused prosecuted for unlawful possession and detainer or for trespass, charges which usually stemmed from disputes over ownership of land and buildings.¹⁹⁹

In urban areas, women had greater contact with wider society; were more regularly part of the work-force, were more dependent on working for wages and therefore more vulnerable to economic fluctuations; and they were also less protected, sheltered and restricted.²⁰⁰ Although Beattie's analysis did not challenge the notion that a paternalistic society operated, it located women's crime in an economic context. He established links between property crime and economic hardship, while rejecting the same for crimes against the person.²⁰¹ There is no doubt that the deliberate arsonists were responding to economic hardship in committing arson but, unlike Beattie's rural women, they were not passive or cushioned from hardship.

Scutt's third theory is that of role-reversal: women commit crimes because they reject the female role. This theory, promulgated primarily by Konopka in relation to adolescent girls,²⁰² assumes that criminal activity is masculine activity. To some extent, this underpins Rudé and Williams' assumption that the female arsonists were not real criminals: to say that they were would mean admitting that their crime had the legitimacy ascribed to the male arsonists and the only way

¹⁹⁹ Beattie, 'The Criminality of Women', p.108; see figures p.108 fn 82.

²⁰⁰ Beattie, 'The Criminality of Women', p.109.

²⁰¹ Beattie, 'The Criminality of Women', pp.101-103.

²⁰² G. Konopka, *The Adolescent Girl in Conflict*, New Jersey, 1966.

around this conundrum was to argue that they committed the crime for essentially 'feminine' reasons such as family or love.

The fourth theory mentioned by Scutt states that women's criminality is an extension of the legitimate female role. Prostitution, shoplifting, domestic theft, child abuse, and welfare cheating are typical examples. It is difficult to slot arson into this category, although it has been implied that the arsonists were motivated by reasons associated with a legitimate female role. By stating that the Irish female arsonists were not protesting but were motivated by family or romantic ties, Rudé and Williams drew on traditional gender-specific analyses of female criminality. This was similar to Beattie's suggestion that women's participation in food riots was 'a reflection of the immediacy of their concern with the critical matter of the supply and price of food.'²⁰³ Such views imply that women only exercised agency within paternalistic constraints.

Recent historians, in rejecting the existence of a distinct criminal class, have argued that crime is committed as a response to economic difficulty. This was partially mooted by Beattie, who established links between women's property crime and economic fluctuations.²⁰⁴ Reid implied that the preponderance of separated wives, widows, single women and unmarried mothers among

²⁰³ Beattie, 'The Criminality of Women', p.88.

²⁰⁴ Beattie, 'The Criminality of Women', p.109.

transportees – a consistent aspect of female criminality generally – was related to economic fluctuations, these women being the most economically vulnerable.²⁰⁵

Perhaps there is no intrinsic female criminality. Clive Emsley referred to the opportunistic petty nature of crime: individuals did not typically commit crime as part of a planned, determinedly criminal lifestyle, but intermittently, fostered by economic hardship and encouraged by opportunity.²⁰⁶ Reid agreed, arguing that crime was an intrinsic part of life ‘on the margins’, and was a means of bridging the gap between ‘legitimate’ income and survival.²⁰⁷ Crime, viewed in this way, is not gender-specific, or sex-determined, but a combination of necessity and chance common to both sexes.

In this context, it is important to ask whether arson committed by men was any different to that committed by women. In the act itself, there was little difference: property was fired. Arson, as Pollak stated, was not a sex-specific offence.²⁰⁸ Whether there were differences in the context or motive between male and female arsonists remains problematic, given the lack of evidence as to what really happened and why. What seems certain, however, is that the commission of the crime, its motive and context are complex, whether committed by men or women. It is not possible to state, categorically, that male arsonists were social protesters and female arsonists were not, or that female arsonists committed the crime for

²⁰⁵ Reid, ‘Work, Sexuality and Resistance’, p.53. See Maureen Langan-Egan, ‘Women in Mayo, 1821-1851’, M.Ed., National University of Ireland, Galway, 1986, pp.72-75 for a discussion of the economic vulnerability of widows in nineteenth century Mayo.

²⁰⁶ Emsley, ‘Crime and Society’, p.135.

²⁰⁷ Reid, ‘Work, Sexuality and Resistance’, p.61.

²⁰⁸ Pollak, *The Criminality of Women*, pp.87-88.

family reasons and male arsonists did not. However, there are significant differences between male and female arsonists. Firstly, the number of women committing arson in Ireland from the mid-1840s to about 1853 was significantly higher than that of the men. For that period at least, and only in some parts of Ireland, arson was, to use Smart's term, a sex-related offence: that is, a crime which may be committed by either sex but which in practice appears to be committed more by one sex than another.²⁰⁹ Secondly, no Irish male arsonists were recorded on their convict records as stating that they deliberately committed the crime in order to be transported.²¹⁰ These differences, however, cannot be explained by gender. As Scutt suggested, the analysis of the female criminal must not be in terms of her sexuality but in the context of the real social and political structure of the society in which she operates.²¹¹

Certainly, the arsonists do not fit into any traditional analysis of female criminality. Arson did not require innate strength. The physiological composition of the arsonist had no bearing on the commission of the crime. It is as difficult to conceive that there was something in the makeup of the women which caused them to commit the crime as it is to believe that they were influenced by their menstrual cycles to do so. Nor does this physiological theory help explain why more women than men were convicted of this crime in Ireland from the mid-1840s to the mid-1850s. As already noted, arson is not always easily detected, but, unlike other stereotypical 'female' crimes, it is also a crime where detection,

²⁰⁹ Smart, 'Women, Crime and Criminology,' p.8.

²¹⁰ There is, however, some evidence that some Irish male arsonists deliberately offended in order to be transported. This is discussed more fully in the following chapter. See also Rudé, *Protest and Punishment*, p.147.

²¹¹ Scutt, 'Crime and Sexual Politics', p.551.

if sought, is effortless. The deliberate arsonists do not conform to stereotypical female criminals because they made no attempt at disguising or concealing the crime. Traditional theories do little to explain the incidence of female arsonists in some parts of Ireland in the decade from the mid-1840s. The most useful theories are those which relate to economic hardship but these are not exclusive to female criminality. The deliberate arsonists used crime to change their circumstances, to exercise agency to control their lives.

Conclusion

In summary, there are four distinct elements in the historiographical discussion about female arsonists: Shaw's social offenders; Robson's political offenders; Payne's protesters with a real grievance; and Rudé, Williams and Davis' non-protesters. Oxley can be included in this last group, as she, too, asserted that the Irish women do not stand out as agrarian offenders.²¹²

Although arson was a traditional crime of rural protest, there is little evidence to suggest that the arsonists were social or political offenders. Only a handful possibly fit into these categories, and even then the evidence is not strong. In these cases, the motive could just as easily have been revenge. The only cases where strong evidence exists as to motive are in the statements of those women who confessed to deliberately committing arson in order to improve their circumstances. As Rudé, Williams and Davis all indicated, it is difficult to reconcile this group with social or political offenders. Certainly, the deliberate arsonists gave no indication that is how they saw themselves.

²¹² Oxley, *Convict Maids*, pp.66-72.

An analysis of the nature of arson and its conceptualisation as a crime and form of protest is fundamental to an understanding of the phenomenon of the Irish female arsonists. As demonstrated in this chapter, traditional historiographical accounts of arson have focused on the crime as a form of protest. The Irish female arsonists have either been included uncritically in the group of protesters or excluded from it on the basis of their gender, their assumed motive, previous convictions, or perceived knowledge of their prosecutors. Traditional historiographical explanations of the Irish female arsonists are largely inadequate and do not help answer the first question of this thesis: that is, why did so many women commit arson in Ireland during the Famine and immediately after? In many cases, the categorisation of arson is not clear-cut and depends on motive and context. As well, traditional historiographical accounts gloss over the prevalence of the deliberate arsonists, a significant aspect of the story of the Irish female arsonists. This thesis, through detailed examination of the circumstances of the Irish female arsonists, aims to remedy this deficit.

Furthermore, traditional theories of female criminality do not help explain why so many women committed arson in Famine and post-Famine Ireland. Traditionally, it has been argued that there are fundamental differences in the criminality of men and women, based on the innate character and nature of women. In Ireland, in the mid-1840s and 1850s, arson was a gendered crime but it was not a typical female crime. The Irish female arsonists, and especially the deliberate arsonists, do not conform to conventional explanations of female crime. The fact that so many

women were convicted of arson in Ireland from the mid-1840s challenges traditional notions of female criminality.

While many of the issues remain problematic, because of lack of evidence and contradictory accounts, two conclusions are possible from an analysis of the nature of arson: firstly, that there is no evidence that the Irish female arsonists were social or political offenders, and secondly, that at least one-third of the women who committed arson did so in order to be transported – they were actively seeking to change their circumstances.

Chapter Two: The Arsonists

Chapter One explored historiographical representations of the Irish female arsonists, and compared these with evidence of motivation, particularly why the women said they committed arson. It concluded firstly, that there is no evidence that the Irish female arsonists were social or political offenders, and secondly, that at least one third of the women committed arson in order to be transported: they were actively seeking to change their circumstances.

Each arsonist's experience was unique, and was shaped by the context in which she lived. The poverty and social dislocation associated with the Famine was a fundamental part of the environment in which the women offended. As important was the response of the Irish legal system to increasing crime, and particularly its response to the growth in the number of women committing arson.¹ As always with those who are marginalised, poor and largely illiterate, finding the voice of individual women is difficult, but it is possible to glean some understanding of the response of the arsonists to their circumstances. As Gothard stated, 'Only by knowing the shape of the whole can we piece together the individual fragments of each woman's experience'.²

¹ For an overview of the Irish legal system, see J.F. McEldowney and Paul O'Higgins (eds.), *The Common Law Tradition: Essays in Irish Legal History*, Dublin, 1990; J.F. McEldowney, *Irish Jury Trial: A Survey of Some Eighteenth and Nineteenth Century Statutes*, Warwick Law Working Papers, Vol.3, No.4, 1979; J.F. McEldowney, 'Crown Prosecutions in Nineteenth-Century Ireland' in D. Hay and F. Snyder (eds.), *Policing and Prosecutions in Britain, 1750-1850*, Oxford, 1989, pp.615-635.

² Jan Gothard, *Blue China. Single Female Migration to Colonial Australia*, Melbourne, 2001, p.viii.

This chapter begins with the task of identifying the Irish female arsonists individually, looking specifically at the deliberate arsonists.³ It provides a profile of the deliberate arsonists and includes statistical summaries of their background. Additional detailed prosopographical information, including age, literacy levels, occupation, marital status, and religion can be found in the introduction to Part Two of this thesis. This section also examines the number of women transported from Ireland to Van Diemen's Land for arson, and briefly considers the reasons for discrepancies in numbers. It notes that not all those who were sentenced to transportation were actually transported and explores the way that convict selection criteria may have determined which convicts remained behind.

Next, the chapter demonstrates the dramatic growth in numbers of Irish women transported for arson in the late 1840s and early 1850s, and especially the increase in those who confessed that they had deliberately committed the crime in order to be transported. It explores the context in which the women committed arson and attempts to answer the first fundamental question of this thesis: why so many women committed arson in the late 1840s and early 1850s. It looks at these questions in the context of the Famine, poverty and crime. During the period of transportation to Van Diemen's Land, nearly 20 per cent of convicts were Irish, with most arriving after

³ The term 'deliberate arsonists' is used throughout to signify those women for whom there is some evidence that they deliberately committed arson in order to be transported.

1840 when transportation to New South Wales ceased.⁴ Over half of the women and 45 per cent of the men were tried between 1846 and 1849, the core years of the Famine, and immediately afterwards.⁵ The societal acceptance of 'courting transportation' as a compelling reason for committing crime strengthened during the course of the Famine and encouraged those seeking to improve their conditions to use it as a method. The use of arson by women to engineer transportation was a striking part of this pattern.

This chapter also attempts to answer the second fundamental question of this thesis: why the deliberate arsonists chose to commit arson and not some other crime. The women committed arson at a time when they were increasingly economically vulnerable and when the society in which they lived was racked by social dislocation. Reid's explanation of the role of risk-evaluation in the committal of crime is useful. She suggested that the decision to commit a crime involved a significant degree of risk-evaluation: the weighing-up negative sanctions against positive benefits; the risk of detection and calculation of the severity of potential punishment versus potential material gain.⁶ The risks in choosing to commit a crime and be transported outweighed the disadvantages of not doing so. Arson, and the chance it promised to escape from Ireland's poverty, was worth the risk for many Irish women.

⁴ John Williams, 'Irish Convicts in Tasmania', *Bulletin for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.19. Not all had been tried in Ireland; 3,504 were sentenced in other parts of the British Empire. Of the 10,988 from Ireland, 7,301 were men and 3,687 were women.

⁵ Williams, 'Irish Convicts in Tasmania', p.19. The date of the Famine is generally accepted to be 1846-1851: on dating the Famine, see Cormac Ó Gráda, *Black '47 and Beyond: the Great Irish Famine in History, Economy and Memory*, Princeton, 1999, pp.41-43.

⁶ Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995, p.68.

Numbers of arsonists

Approximately fifty men were transported from Ireland for arson.⁷ Arson accounted for approximately 1 per cent of Irish men and British convicts transported to the Australian colonies.⁸ In Reid's study of 3804 female convicts arriving in Van Diemen's Land between 1820 and 1839, only twelve women, or 0.3 per cent, were transported for arson.⁹ Christine Woods' study of the women who arrived from England on the *Duchess of Northumberland* in 1853 recorded two, and possibly three women, transported for arson.¹⁰ There is no evidence to suggest they deliberately committed arson in order to be transported. Neither Babette Smith or Deidre Beddoe's studies mentioned arson.¹¹ Nor did Leonard Johnson's recent detailed study of Lancashire's Salford Hundred convicts transported to Van Diemen's Land between 1828 and 1837.¹² The Irish female arsonists were atypical.

⁷ George Rudé, *Protest and Punishment: The Story of the Social and Political Protesters transported to Australia 1788-1868*, Oxford, 1978, p.5, and p.252 Table 7, lists 50. The Irish Transportation Registers also list 50; Williams, *Ordered to the Island*, p.72, mentions 48; and the *John Williams Irish Convict Database* at the University of Tasmania, has 49. See Appendix Three: Male Arsonists, which lists 49.

⁸ Williams, *Ordered to the Island*, p.72 citing L.L. Robson, *The Convict Settlers of Australia*, Melbourne, 1965, p.206 Table 8 (d). This table mentions 'wilful destruction' and not arson specifically. See also L.L. Robson, 'The Origin of the Women Convicts Sent to Australia, 1787-1852', *Historical Studies*, Vol.11, No.41, November 1963, p.48, which shows that, in a sample of 1,248 women transported to Australia, approximately 2% were tried for 'Arson. Wilful destruction'. See also Oxley, *Convict Maids*, p.247 and p.260 Table A9. Oxley includes arson in the category of 'other.' See also Rudé, *Protest and Punishment*, p.252, Tables 7 & 8.

⁹ Reid, 'Work, Sexuality and Resistance', p.61.

¹⁰ Christine Woods, *The Last Ladies. Female Convicts on the Duchess of Northumberland, 1853*, Claremont, Tas., 2004.

¹¹ Babette Smith, *A Cargo of Women. Susannah Watson and the Convicts of the Princess Royal*, Sydney, 1988; Deirdre Beddoe, *Welsh Convict Women: A study of women transported from Wales to Australia, 1787-1852*, Carmarthen Wales, 1979.

¹² Leonard David Johnson, 'An analysis of the penal experiences and social outcomes of Salford Hundred convicts transported from Britain to Van Diemen's Land between 1828 and 1837', unpublished Ph.D. Thesis, University of Tasmania, 2002.

Estimates of the number of women transported from Ireland to Van Diemen's Land for arson vary.¹³ Williams, in his study of Irish convicts, listed 242.¹⁴ The John Williams Irish Convict Database included entries for 234 women transported for arson. Rudé also counted 234 women.¹⁵ The Irish Transportation Registers, which recorded those sentenced to transportation in Ireland, list 242 women, but twenty-nine of these do not appear to have arrived in Van Diemen's Land. This study has identified 248 women sentenced to transportation from Ireland for arson who embarked, and thirty-five who were sentenced but remained in Ireland, a total of 283. These women are listed in Appendix One: Irish Female Arsonists and Appendix Two: Irish Female Arsonists Left Behind.

The Irish Transportation Registers include some women who may have been off-loaded after they had embarked, possibly because of sickness, as well as those who died on the voyage from Ireland to Van Diemen's Land. Figures compiled from indents or conduct registers do not always include those who died on the voyage. This may account for some discrepancies.

Administrative errors were also responsible for discrepancies. The Irish Transportation Registers also include several women for whom the offence is recorded as 'larceny' rather than arson, including those tried in Tipperary on 23 July 1851. According to the *Tipperary Free Press*, twelve people were tried for arson on

¹³ The discrepancies in the numbers of male convicts are much less significant: see Footnote 7.

¹⁴ Williams, *Ordered to the Island*, p.131.

¹⁵ Rudé, *Protest and Punishment*, p.5, but cf. p.252, Table 7, which lists 232 women.

this date.¹⁶ However, the Irish Transportation Register recorded that eleven (all women) were tried for larceny.¹⁷ Another arsonist, Honora Moore, was recorded as being transported for stealing a cow.¹⁸

Shaw suggested that a significant proportion of those sentenced to transportation remained behind.¹⁹ In some instances, sentences were commuted to imprisonment before embarkation took place: this was the case for at least four arsonists.²⁰ It is not always possible, however, to say why commutation took place. Catherine Dillane had to wait three years before her sentence was commuted: aged thirty, she had been tried in County Clare in 1851 and sentenced to transportation for ten years. In 1854, she was removed to Clare Gaol, her sentence having been commuted to imprisonment.²¹

¹⁶ *Tipperary Free Press* 26 July 1851 p.2 col.5. They were Ellen Brien, Ellen Murphy, Anne Sullivan, Mary Prendergast, Alice Griffin, Mary Jones, Mary Hennessy, Alice Tobin, Norry Burke, Margaret Carroll, Margaret Ryan, and Henry Widruff.

¹⁷ NAI, GPO TR11 p.64. The 11 women were Norry ('Mary') Burke, Margaret Carroll, Alice Griffin (also 'Griffity' and Griffith), Mary Hennessy, Mary Jones, Alice Tobin, Ann Sullivan, Margaret Ryan, Ellen Brien, and Mary Prendergast.

¹⁸ NAI, GPO TR9 p.76 F: Honora Moore; AOT, CON 41/24 and CON 15/6 Nora Moore *Australasia* 1849 No.1040. See also Trudy Cowley, *A Drift of Derwent Ducks, A study of the female Irish convicts transported on the Australasia from Dublin to Hobart Town, 1849*, forthcoming publication.

¹⁹ A.G.L. Shaw, *Convicts and the Colonies. A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, Melbourne, 1978, p.150.

²⁰ This group included 24-year-old Bridget Maher, tried in King's County on 7 March 1844 and sentenced to transportation for 15 years. Her sentence was commuted to 12 months' imprisonment and her name was 'struck through the register': NAI, GPO TR5 p.269. See also Bridget Muhe, aged 24, tried for arson Queen's County, 7 March 1844, sentenced to transportation for 15 years, 'everything struck through': NAI, GPO TR5 p.299. Bridget Keife, tried for arson 23 October 1848, and sentenced to transportation for 7 years, was detained at Grangegorman Gaol, County Dublin: NAI, GPO TR8 p.274. Mary Sullivan (no age) was tried in County Cork on 23 October 1848 but was detained at Grangegorman Gaol: NAI, GPO TR8 p.274.

²¹ NAI, GPO TR10 p.299 and TR11 p.9. See also *Clare Journal* 3 March 1851 p.3 col.3.

A number of women listed in the Irish Transportation Registers were ordered to be discharged before transportation took place. As the case of the Killeen siblings illustrates, it is not always possible to tell why. In July 1852, eighteen-year-old Elizabeth and fifteen-year-old James Killeen were sentenced to transportation for arson in Kildare.²² The *Leinster Express*, reporting the Naas Petty Sessions, noted:

James and Elizabeth Killeen were brought up in custody, charged with setting fire to the back premises adjoining Dr. Clarke's house at Naas.
Sub-Constable Dolan deposed to seeing the male prisoner setting fire to the eave of the thatch.
Sir M. Crofton, Did they see you?
Dolan, No, I think not.
Sir M. Crofton – I suppose their object was to get transported.
Both prisoners deferred offering any defence,
Sent for trial to Quarter Sessions at Maynooth.²³

Both were later discharged: Elizabeth Killeen in July 1856 and James in May 1858.²⁴

No explanation has been found for their discharge.

Death and natural attrition contributed to the discrepancy in numbers between those sentenced and those transported. At least five of the women sentenced to transportation for arson died before boarding ship. One of these was fifteen-year-old Bridget O'Dea, who was tried in Clare in March 1849 for arson and sentenced to transportation for seven years.²⁵ Indicted for maliciously setting fire to a dwelling house, she voluntarily confessed to the resident magistrate, her crime apparently

²² NAI, GPO TR12 p.222 (Elizabeth Killeen), TR12 p.71 (James Killeen). The sentence recorded was 7 years. However, see *Leinster Express* 3 July 1852 p.3 col.1 (Maynooth Quarter Sessions): 'James and Eliza Killen for arson, ten years transportation.'

²³ *Leinster Express* 10 June 1852 p.2 col.5. See also 3 July 1852 p.3 col.1.

²⁴ NAI, TR12 p.222 (Elizabeth Killeen), TR12 p.71 (James Killeen).

²⁵ NAI, GPO TR9 p.10; NAI, CSO Outrage Papers, 1848 Clare No.5/1116.

‘stimulated entirely by a wish to be transported as a means of avoiding *starvation*.’²⁶ She died at Grangegorman Gaol, County Dublin, in July 1849, and her name was struck from the transportation register.²⁷

Even after the sailing, on 17 November 1852, of the *Midlothian*, the last female convict transport from Ireland to Van Diemen’s Land, women continued to be tried for arson and sentenced to transportation. One of those to die in gaol after the *Midlothian* sailed was Sarah Curran, tried in County Kildare on 31 December 1852 and sentenced to transportation for seven years; she died in Grangegorman Gaol, County Dublin, on 28 March 1853.²⁸ No statement of her motivation has been found.

Those women transported for arson who died on board convict transports included Margaret Foley, tried in 1848 in Cork with Mary Donovan and sentenced to transportation for seven years.²⁹ Two women tried in Clare in 1849 also died during the voyage. Honora Hehir, who died on board the *Earl Grey* in 1850, appears to have been originally scheduled to sail on the *Duke of Cornwall*; she had one child with her

²⁶ *Freeman's Journal* 8 March 1849 p.2 col.1. Emphasis in text. See also *Clare Journal* 8 March 1849 p.2 col.3.

²⁷ NAI, GPO TR9 p.10; NAI, CSO Outrage Papers, 1848 Clare No.5/1116. Another was 24-year-old Catherine McNamara, tried in County Cork on 21 March 1850 and sentenced to transportation for 10 years; she died in the County Hospital on 1 June 1850: NAI, GPO TR10 p.301. See also *Freeman's Journal* 26 March 1850 p.1 col.6 for details of her trial. Similarly, Bridget Callanan, for whom no age was recorded, died at Grangegorman on 3 December 1850. Tried at County Galway on 14 March 1850, she was sentenced to transportation for 7 years for arson: NAI, GPO TR10 p.322. Ellen Brislawn, aged 21, was tried in County Wexford on 27 February 1852; sentenced to transportation for 7 years, she died in Grangegorman Prison on 28 December 1852: NAI, GPO TR12 p.274. See also *Wexford Independent* 6 March 1851 p.1 col.2.

²⁸ NAI, GPO TR13 p.194; *Leinster Express* 8 January 1853 p.3 col.6. She appears to have been tried with Mary Anne (or Marianne) Farrell, who was ordered to be discharged on 3 February 1857.

²⁹ NAI, GPO TR8 p.274; AOT, CON 41/22 and CON 15/5 Mary Donovan 2nd *Maria II* 1849 No.646.

on board.³⁰ Bridget Butler, who was tried with her daughter, Ann Corry, in Clare in 1849, died on the *Australasia* at sea on 28 September 1849.³¹

It is possible that some of the women were set aside because they did not meet health or other requirements. Rena Lohan noted that particular attention was paid to convicts' general health and maintenance before embarkation, and that only those obviously suffering from serious or contagious diseases, women in an advanced state of pregnancy or having recently given birth, the very elderly, or those suffering from mental afflictions were rejected.³² At least two arsonists, however, apparently had some form of disability: Maria Lynch was described as 'idiotic' on her convict records,³³ and Mary Farrell, who burned her father's house because he would not let her in, had lost one leg.³⁴ Neither disability seems to have been significant enough for the women to be weeded out. In 1845, Comptroller General of Convicts Forster complained to Lieutenant-Governor Wilmot that it was 'indeed a rare occurrence that

³⁰ NAI, GPO TR9 p.11 Honora Heher or Hehir. This records the ship as *Duke of Cornwall*. However, she was transported on the *Earl Grey* in 1850: see AOT, CON 41/26 and CON 15/6 Honora Hehir *Earl Grey* 1850. See also *Clare Journal* 9 July 1849 p.2 col.2.

³¹ NAI, GPO TR9 p.10F; *Freeman's Journal* 3 March 1849 p.2 col.1; AOT, Adm. 101/6 Reel 3189: Surgeon's Report *Australasia* 1849; AOT, CON 41/24 and 15/6 Bridget Butler *Australasia* 1849 (no number recorded). See also AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000. Ann's indent refers to her mother as Mary, not Bridget, and adds that she died on board. There was no Mary Butler on the ship.

³² Rena Lohan, 'Sources in the National Archives for research into the transportation of Irish convicts to Australia (1791-1853)', *Journal of the Irish Society for Archives*, Spring 1996, Vol.3, No.1, pp.15-16. See also Rena Lohan, 'The Management of female convicts sentenced to transportation and penal servitude 1790-1898', unpublished M.Litt. Thesis, University College Dublin, 1989. For convict selection criteria generally, see Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Cambridge, 1996, p.60; David Meredith, 'Full Circle? Contemporary View on Transportation' in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.14-27.

³³ AOT, CON 41/5 and CON 15/3 Maria Lynch *Tasmania* (2) 1845 No.356; *Roscommon and Leitrim Gazette* 12 July 1845 p.2 col.1.

³⁴ AOT, CON 41/22 and CON 15/5 Maria II 1849 Mary Farrell No.420. See also Williams, *Ordered to the Island*, p.19 for similar examples.

transports arrive without bringing some convicts who are Maimed, halt or otherwise Invalid.³⁵ David Meredith suggested that age, health and length of sentence were major selection criteria, noting that government policy imposed an upper age limit.³⁶ Meredith summarised the general selection criteria stated in parliamentary reports: 'The criteria for selection were age (males 15 to 50 years, females under 45 years), health (they had to be fit enough to withstand the voyage), and sentence: all those sentenced to life and fourteen years were transported as long as they met the age and health requirements.'³⁷ To these criteria, Oxley added occupation.³⁸ In general, the deliberate arsonists slotted neatly into the selection criteria.

Age was certainly a consideration during the early period of transportation. In 1812, the *Report of Select Committee on Transportation* noted that the government policy for women convicts was 'to send, without any exceptions, all females whose state of health will admit it, and whose age does not exceed forty-five years'.³⁹ Reid argued that this was an attempt to provide 'colonial labour at its optimum productive and reproductive age'.⁴⁰ Governments were keenly aware of the value in attracting young settlers whose costs of rearing had been borne overseas and who were entering the labour force at the beginning of their most productive years. The very young and the elderly (those over sixty) presented problems to colonial governments in terms of

³⁵ AOT, GO 33/53 Comptroller General of Convicts Forster to Lieutenant-Governor Wilmot, 15 November 1845.

³⁶ Meredith, 'Full Circle?', p.14. Meredith argued that all those sentenced to life and 14 years, who met age and health requirements, were transported.

³⁷ Meredith, 'Full Circle?', p.14.

³⁸ Oxley, *Convict Maids*, pp.168, 236-7.

³⁹ BPP, *Report of Select Committee on Transportation*, 1812, Volume II (1812), pp.581-582.

⁴⁰ Reid, 'Work, Sexuality and Resistance', p.123.

welfare provision.⁴¹ Most of the deliberate arsonists were under forty-five; the oldest was in her sixties.⁴²

N.G. Butlin suggested that the proportion of convicts actually transported was related to indictment and conviction rates. He argued that the decision to transport was centralised and depended upon such factors as budgetary constraints, shipping, changing ideas about incarceration and reform, and the availability of gaol accommodation.⁴³ At a more simplistic level, a number of historians have offered as an explanation the correlation between those transported and the labour needs of colonial Australia.⁴⁴ It is difficult to say how much influence factors such as criminal record, occupation and skills, character reports and gaol reports had on the selection process. Whatever the reason, not all those sentenced to transportation for arson (and other crimes) were actually transported.

The Irish Transportation Registers indicate there were a number of women convicted of arson still being held in Irish prisons when transportation to Van Diemen's Land ceased in 1853, as well as a number of men. Some of these appear in the Irish

⁴¹ Reid, 'Work, Sexuality and Resistance', pp.122-123. The age groupings were similar to those of female migrants: see Stephen Nicholas and Peter R. Shergold, 'Convicts as Migrants' in Nicholas (ed.) *Convict Workers*, p.49, who assert that: 'Age became a criterion by which the state decided to select or reject immigrants'. See also Elizabeth Rushen, *Single & free. Female Migration to Australia, 1833-1837*, Melbourne, 2003.

⁴² AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208: tried in Tipperary in 1850, Mary was sentenced to transportation for 15 years. She stated that she committed the offence to follow her daughter.

⁴³ N.G. Butlin, *Forming a Colonial Economy Australia 1810-1850*, Cambridge, 1994, pp.16-18.

⁴⁴ See, for example, George Rudé, *Criminal and Victim. Crime and Society in Early Nineteenth-Century England*, Oxford, 1985, pp.120-121.

Transportation Registers among those who were ordered to be discharged, but it is difficult to state precisely how many were still held in Irish prisons. At least five women tried just before transportation to Van Diemen's Land ended were still imprisoned in the mid-1850s, and were later discharged.⁴⁵ The last discharge appears to have been in 1860.⁴⁶ Some were still sentenced to transportation after the cessation of transportation: arsonist Mary Murray, tried in Wicklow, was sentenced to fifteen years' transportation in 1857, four years after transportation ceased.⁴⁷

Increasing Numbers of Women Transported for Arson

Before 1846, and the Famine in Ireland, arson accounted for only 1 per cent of women tried in Ireland and transported to Van Diemen's Land, comparable with Irish male and British figures. Williams calculated that this rose to 5 per cent during the Famine, and 14 per cent after 1850.⁴⁸ Table 1 demonstrates the rising number of Irish female arsonists transported to Van Diemen's Land.

Before 1840, Irish convicts were not transported directly to Van Diemen's Land. The reason for this has not been clearly established. In 1840, the policy changed when transportation to New South Wales terminated.⁴⁹ The first ship to bring Irish convict

⁴⁵ See Appendix Two.

⁴⁶ NAI, GPO TR 12 p.224. Tried in County Kilkenny in 1852, 18-year-old Mary Doolan was sentenced to transportation for 15 years.

⁴⁷ NAI, GPO TR 15 p.281.

⁴⁸ Williams, *Ordered to the Island*, p.72.

⁴⁹ See Williams, *Ordered to the Island*, pp.100-101; Robson, *The Convict Settlers of Australia*, pp.89-91; Richard Davis, ' "Not so bad as a bad marriage" Irish Transportation policies in the 1840s', *THRAPP*, Vol.47, No.1, March 2000, p.9.

women directly to Van Diemen's Land was the *Mary Anne III* in 1841. The first Irish female arsonists arrived on the *Mexborough* in the same year.⁵⁰

Name of Ship	Arrival Year	Number of Arsonists	Percentage of Arsonists	Number of Convicts Embarked
<i>Mary Anne III</i>	1841	0	0%	125
<i>Mexborough</i>	1841	2	1%	145
<i>Hope</i>	1842	0	0%	139
<i>Waverley</i> (2) ⁵¹	1842	4	3%	149
<i>East London</i>	1843	1	1%	133
<i>Greenlaw</i>	1844	0	0%	120
<i>Phoebe</i>	1845	4	3%	129
<i>Tasmania</i> (2)	1845	2	1%	140
<i>Arabian</i>	1846	2	1%	150
<i>Waverley</i> (3)	1847	0	0%	134
<i>John Calvin</i>	1848	7	4%	171
<i>Kinnear</i> (2)	1848	3	2%	144
<i>Lord Auckland</i> (3)	1849	16	8%	200
<i>Maria II</i>	1849	15	9%	166
<i>Australasia</i>	1849	17	9%	200
<i>Earl Grey</i>	1850	33	14%	240
<i>Duke of Cornwall</i>	1850	26	13%	200
<i>Blackfriar</i>	1851	46	18%	261
<i>John William Dare</i>	1852	28	16%	172
<i>Martin Luther</i>	1852	29	14%	212
<i>Midlothian</i>	1853	13	8%	170

Table 1: Number and percentage of female convicts on each ship who were arsonists, Ireland to Van Diemen's Land, 1841-1853 [n=248].

⁵⁰ AOT, CON 40/8 and CON 19/3 Bridget Murphy *Mexborough* 1841 No.372; AOT, CON 40/6 and CON 19/3 Mary Lahy *Mexborough* 1841 No.240. They were sisters, tried together.

⁵¹ Voyage number refers to voyages to Van Diemen's Land only.

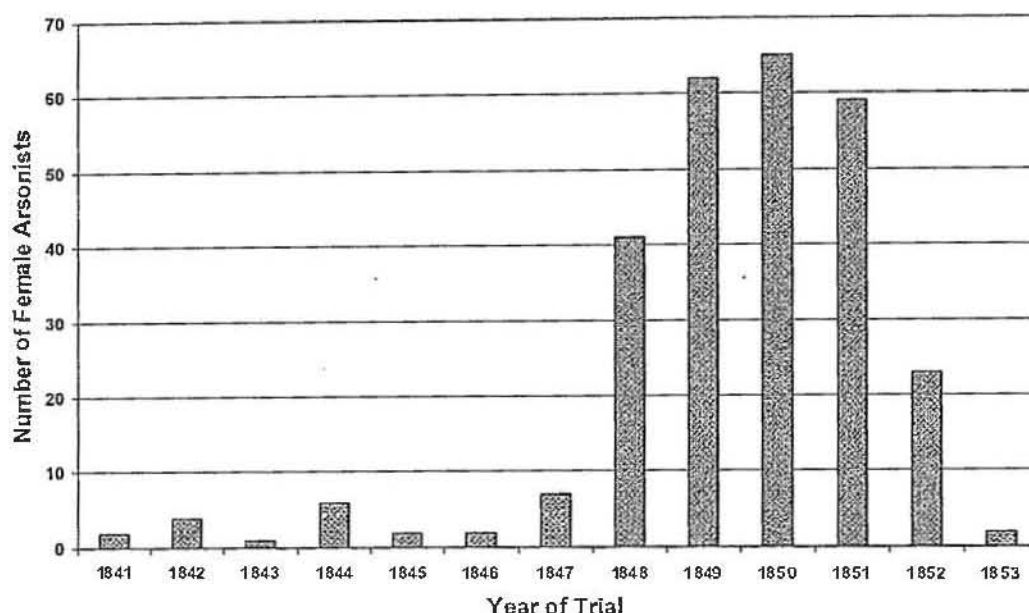


Figure 7 Women sentenced to transportation for arson in Ireland from 1841 to 1853 [n=273].⁵²

As can be seen in Figure 7, the numbers of women sentenced to transportation for arson in Ireland peaked in 1850. A total of 68 per cent of those sentenced to transportation for arson in Ireland were sentenced between 1849 and 1851. As already noted, twenty-four of those sentenced were not recorded as arriving in Van Diemen's Land: they either remained in Ireland or no record of their arrival has been found. In all, 248 Irish female arsonists embarked for in Van Diemen's Land. As can be seen in Figure 8, arrival numbers gradually rose until 1850, when fifty-nine women – 27 per cent of the total number of Irish female arsonists – arrived in two shiploads: thirty-three arrived on the *Earl Grey* in May 1850 and another twenty-six on the *Duke of Cornwall* in October 1850. The following year, the largest single load

⁵² This graph does not include arsonist Mary Murray tried in 1857: see NAI, GPO TR 15 p.281.

of Irish female arsonists arrived on the *Blackfriar*: there were forty-six, or 18 per cent of the total number of Irish female arsonists.

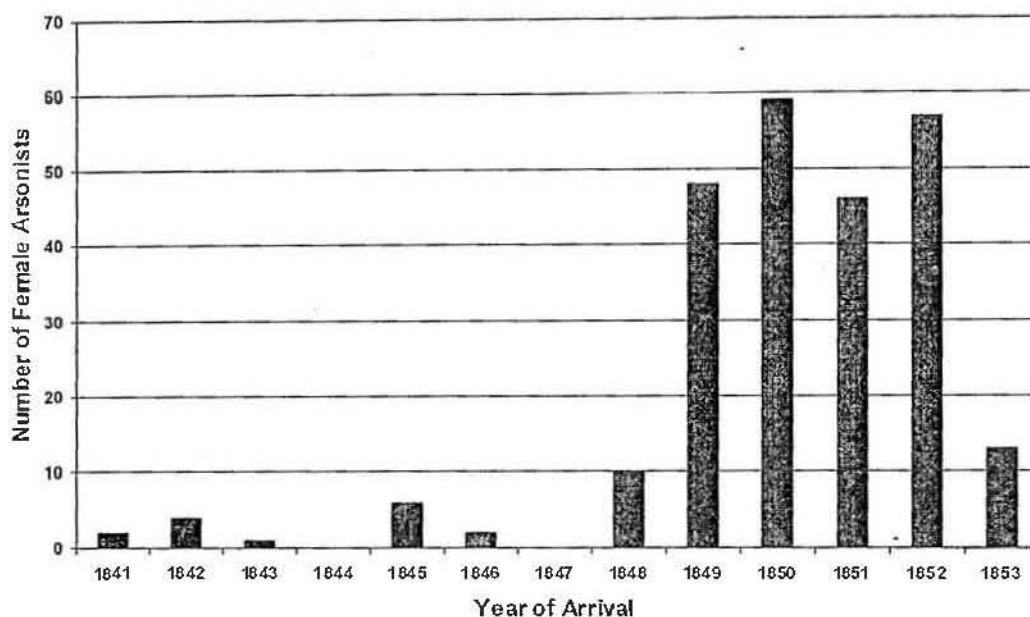


Figure 8: Number of female arsonists transported from Ireland, by year of arrival (n=248).

It is difficult to gauge a corresponding rise in the number of Irish male arsonists, although as Figure 9 shows, trial numbers of those sentenced to transportation peaked in 1849, but dropped off considerably the following year and were much lower overall than those for women. The trial numbers were not reflected in the arrival numbers.

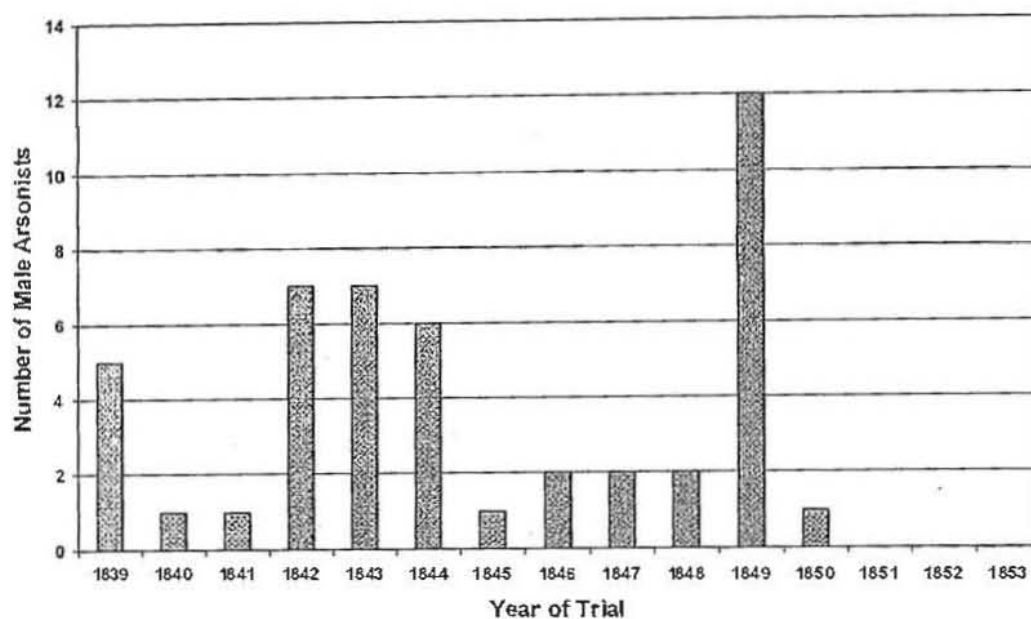


Figure 9: Number of male arsonists transported from Ireland, by year of trial, 1839-1853 [n=49].⁵³

In contrast to the female arsonists, the arrival dates of the Irish male arsonists were much more evenly spread. The earliest arrived in 1818.⁵⁴ In accordance with contemporary policy, no more arrived until after the cessation of transportation to New South Wales in 1840. In 1841, one Irish male arsonist arrived on the *British Sovereign*.⁵⁵ As can be seen in Figure 10, small numbers continued to arrive each year, peaking in 1844 when twelve arrived. As with the women, several male arsonists were held in the Irish prisons at the end of transportation. Some of these

⁵³ Two male arsonists not included in this graph were tried in 1817.

⁵⁴ AOT, CON 31/34 Peter Rogan *Minerva* No.48 and Charles Rogan *Minerva* 1818 No.49.

⁵⁵ AOT, CON 33/7 Michael Foley *British Sovereign* 1841 No.1596.

had been held for several years and were eventually discharged without being transported.⁵⁶

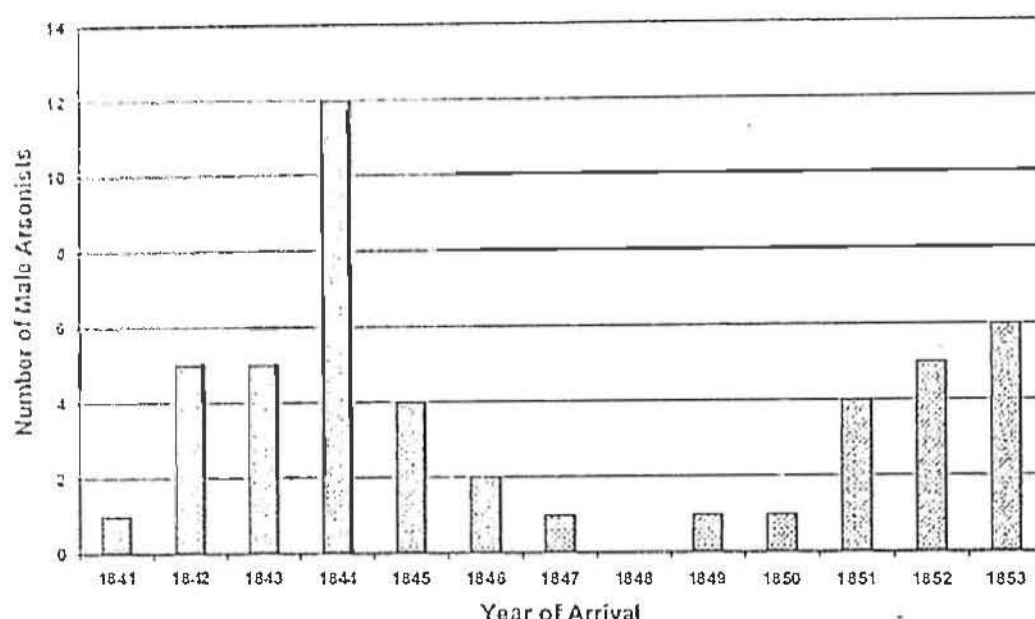


Figure 10: Number of male arsonists transported from Ireland, by year of arrival, 1841-1853 [$n=49$].⁵⁷

There appears to be a greater discrepancy between the trial date and the embarkation date for the men convicted of arson than the women: for example, five of the six men who arrived in 1853 had been tried in 1849, all in different counties. Of the twelve who arrived in 1844, five had been tried in 1839. This variance in dates should be

⁵⁶ Florence Mahony, aged 16, was tried in County Cork on 13 August 1849 for arson and was sentenced to transportation for 10 years; he was ordered to be discharged on 11 August 1855: NAI, GPO TR9 p.32. James Delahunty, aged 17, tried on 11 March 1851 in Tipperary for arson, and sentenced to transportation for 7 years, was ordered to be discharged on 3 May 1855: NAI, GPO TR11 p.144. Thomas Deedy, aged 19, tried on 19 July 1851 in County Limerick, and sentenced to transportation for 7 years for arson, was ordered to be discharged on 7 September 1855: NAI, GPO TR11 p.100. Patrick Downey, aged 15, tried in County Tipperary on 9 March 1853 for arson and sentenced to transportation for 7 years, was ordered to be discharged on 7 July 1857: NAI, GPO TR13 p.117. John Drew, aged 54, tried for arson in County Limerick on 5 March 1851, was ordered to be discharged on 3 May 1855: NAI, GPO TR11 p.97.

⁵⁷ Two male arsonists not included in this graph arrived in 1818.

considered when comparing the year of arrivals patterns of Irish male and female arsonists.

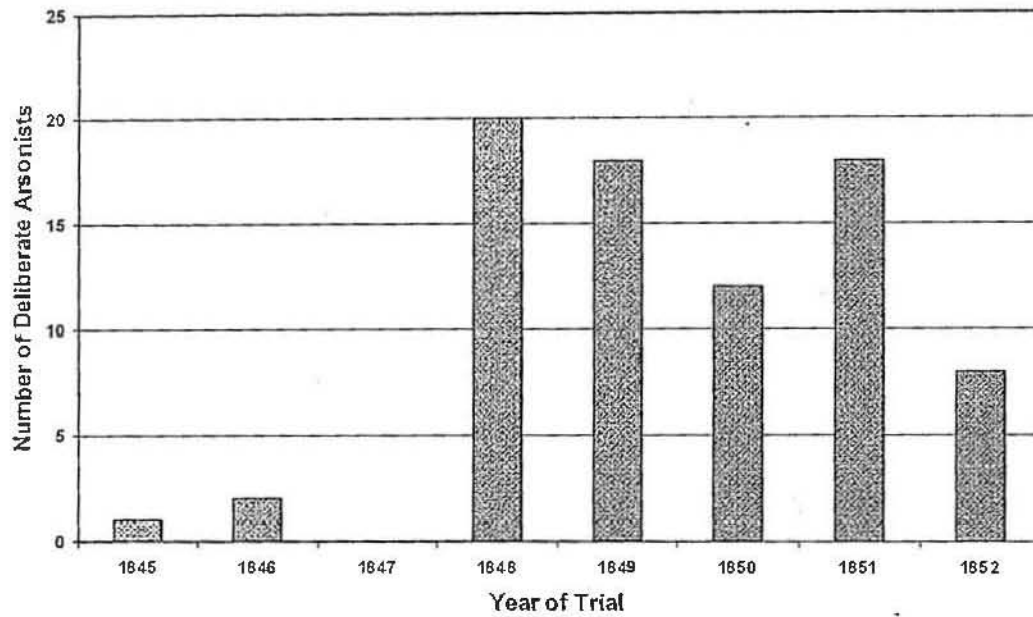


Figure 11: Number of deliberate arsonists transported from Ireland, by year of trial, 1845-1852 (n=79).

In December 1845, the *Tasmania* (2) brought the first female deliberate arsonist from Ireland. As can be seen in Figure 11, the number of trials of deliberate arsonists rose dramatically in 1848, two years after the onset of the Famine, only decreasing significantly in 1852, but still not falling to pre-Famine figures. This trend translated to high arrivals for deliberate arsonists from 1849 to 1852: in 1849, there were twenty-one; in 1850, there were sixteen; and in 1852, there were eighteen. This can be seen in Figure 12.

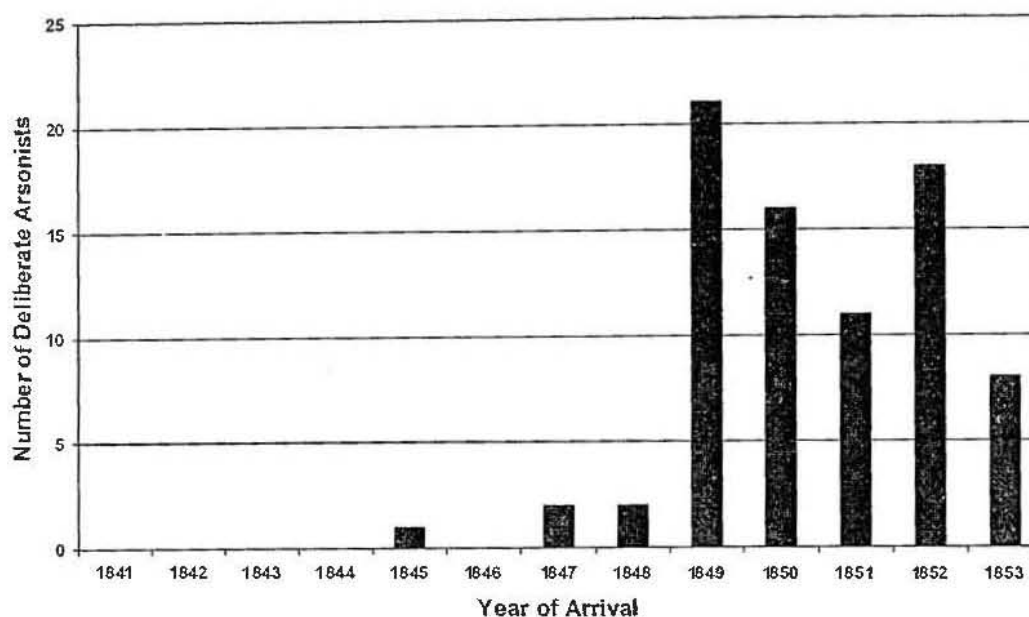


Figure 12: Number of deliberate arsonists transported from Ireland, by year of arrival, 1841-1853 [n=79].

The last ship to bring female convicts to Van Diemen's Land from Ireland was the *Midlothian* in February 1853.⁵⁸ It had only thirteen women transported for arson; eight were deliberate arsonists.

The number of deliberate arsonists might be higher than it appears. For four ships, none of the convict records for the Irish female arsonists noted that the women confessed to deliberately committing arson in order to be transported.⁵⁹ As already noted, too, none of the male arsonists were recorded in their statement of offence as

⁵⁸ For the *Midlothian*, see Sandra Champion, 'Prostitutes, hardened offenders or gratuitous immigrants? Irishwomen of the *Greenlaw* and the *Midlothian*', *Tasmanian Historical Studies*, Vol.4.2, 1994, p.22. See also Sandra Champion, '“Not Hardened Offenders”: the women of the *Greenlaw* and the *Midlothian*', unpublished B.A. (Hons.) Thesis, University of Tasmania, 1994.

⁵⁹ The ships were *East London* (1843), *Phoebe* (1845), *John Calvin* (1848) and *John William Dare* (1850).

stating that they deliberately committed arson in order to be transported. It may be that the question was not asked.

Williams' study of all Irish convicts transported to Van Diemen's Land located twenty-nine arsonists who claimed that their primary motive was to be transported: they 'desired either to escape the consequences of the Famine or to join relatives in the colony.'⁶⁰ Williams suggested that the number of arsonists who deliberately offended was probably higher: he thought it likely that some of those who made no statement as to their intent were similarly motivated, 'particularly as many had no idea who prosecuted them'.⁶¹ (Williams' statement assumes that the inability to identify or name a prosecutor was indicative of intent to deliberately commit a crime in order to be transported. Davis shared the view that those arsonists who did not know their prosecutor deliberately courted arrest.⁶² Neither explained why this should be the case, and the validity of the assertion is difficult to test, given the conflicting information about prosecutors recorded on the women's convict records. Furthermore, a number of deliberate arsonists clearly named their prosecutor.⁶³)

⁶⁰ Williams, *Ordered to the Island*, p.74.

⁶¹ Williams, *Ordered to the Island*, p.74.

⁶² Davis, 'Not So Bad as a Bad Marriage', p.46.

⁶³ AOT, CON 41/20 Catherine Cullinane *Lord Auckland* (3) 1849 No.935: she stated that she committed the offence to be transported and named her prosecutor. See also AOT, CON 41/20 and CON 15/5 Ellen Murphy *Lord Auckland* (3) 1849 No.960; AOT, CON 41/20 and CON 15/5 Mary Paid *Lord Auckland* (3) 1849 No.391 AOT, CON 41/20 and CON 15/5 Margaret Stafford *Lord Auckland* (3) 1849 No.829; AOT, CON 41/20, CON 15/5 and CON 19/7 Mary Sullivan 1st *Lord Auckland* (3) 1849 No.830; AOT, CON 41/22 and CON 15/5 Ellen Connor *Maria* (2) 1849 No.964; AOT, CON 41/22 and CON 15/5 Ellen Gallavan *Maria* (2) 1849 No.495; AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, CON 41/26 and CON 15/6 Margaret Behan *Earl Grey* 1850 No.1044. cf AOT, CON 41/24 and CON 15/5 Susan Chickley *Australasia* 1849 No.1007, who did not know her prosecutor.

Certainly, the number of deliberate arsonists was much higher than indicated by Williams' assessment. There are two main reasons for this. Firstly, some of the women were tried in pairs or groups, but not all members of the group stated they deliberately courted transportation. Further, in some cases where the convict records are silent, additional evidence exists in newspaper reports of trials which indicate that the arson was stated to have been deliberately committed in order to secure transportation.

It is interesting to consider why only some of the women tried together stated that they committed their crime deliberately. It raises the question of what information was requested of them, and whether it was asked consistently. The information from the indent was taken down on arrival and later copied to the convict conduct record. There is no extant record of what was asked at the initial interview, and the questions can only be surmised by the answers that were recorded. How reliable the answers were is problematic.

As noted already, none of the Irish male arsonists were recorded in their statement of offence as stating that they deliberately committed arson in order to be transported. However, other evidence suggests that they may also have deliberately offended to be transported.⁶⁴ In 1849, the *Freeman's Journal* reported the malicious burning of a

⁶⁴ Rudé, *Protest and Punishment*, p.147, cited two English examples of male arsonists who claimed to have committed their crime in order to be transported to Australia. Thomas Brown, from Staffordshire, set fire to a stack of hay; and Jeremiah Head, from Suffolk, was tried in 1845 for firing 3 barley stacks. See also AOT, CON 33/86 and David Jones, 'Thomas Campbell Foster and the Rural Labourer. Incendiarism in East Anglia in the 1840s', *Social History*, No.1, January 1976, pp.5-43.

rick of hay at Fernoy and the subsequent arrest of ‘a young fellow, who gave his name as Maurice Bush, aged about seventeen years, a native of Mallow, who without the slightest hesitation confessed that he was guilty of the offence’.⁶⁵ Bush had apparently been in custody for the previous six months in Cork gaol on charges of larceny, and, according to the newspaper, had ‘committed this diabolical act for the express purpose of getting transported’.⁶⁶ In Tipperary, two men were tried separately for burning a rick of hay: ‘The prisoners in both cases were strangers – wandering vagrants, who perpetrated these malicious acts for the purpose of getting themselves transported’.⁶⁷

In 1850, in Tipperary, a man named Roche and his two sons, natives of County Cork – ‘though located at Abbeyfeale for the last seven or eight years’ – were tried for setting fire to a farmhouse. The building was destroyed, as well as seven cows, and a horse worth £30, together with ploughs, harrows, several implements of husbandry, and a large quantity of ‘deal boards’. One of the sons had become ‘an approver’ against his father and brother, and revealed that they had attempted to burn other property that night, adding:

Being denied relief, and having no means of support, they perpetrated this hellish deed to procure, as they allege, the support of the gaol, and

⁶⁵ *Freeman's Journal* 23 January 1849 p.3 col.3.

⁶⁶ *Freeman's Journal* 23 January 1849 p.3 col.3; NAI, GPO TR9 p.28: Bush was tried in Cork on 17 March 1849 and was sentenced to transportation for 7 years; he died at Spike Island, County Cork, on 28 August 1850.

⁶⁷ *Tipperary Vindicator* 25 July 1849 p.1 col.5. They were to be transported for 15 years. Only one, John Murphy, was named. See NAI, GPO TR9 p.156. One named John Murphy was tried in 1849 and transported on the *Rodney* (3) in 1853 but his trial place was recorded as Kildare: see AOT, CON 33/113. The other man was probably Jeremiah Dwyer: see NAI, GPO TR9 p.156 and *Tipperary Vindicator* 25 July 1849 p.2 col.4. He died in Kilmainham Gaol in March 1850.

transportation, which by the destitute are deemed greater blessings than liberty or starvation.⁶⁸

In Cork, in 1850, John Hurley was transported for fifteen years for maliciously setting fire to a house:

It appeared that the prisoner, who is a grown up man, compelled a little boy named Jeremiah Lane, to stand by and witness him putting fire in the thatch of Mr Noonan's house, and that he then required Lane to inform the police; Lane at first refused to do so, whereupon the prisoner threatened to go forward, and make the charge against him. Under the influence of this threat, Lane did go to the police.⁶⁹

In Kerry in 1850, three men maliciously set fire to the ice house at Killorglen. They were 'all young lads' and pleaded guilty. The newspaper report of their trial commented:

Although warned of the consequences of so pleading, and that it would not in the least diminish the amount of punishment, they refused to withdraw the plea. They were then removed. They had previously expressed a wish to be transported.⁷⁰

In July 1851, Thomas Deedy, a boy, was tried at Limerick Assizes for arson; he immediately admitted his guilt, and apparently desired conviction.⁷¹ In December 1851, Thomas Crough, a native of Cappawhite, was discharged from Clonmel Gaol, where he had served two years for putting stones on the rails of the railway. In

⁶⁸ *Limerick Reporter* 23 March 1850 p.2 col.5. See NAI, GPO TR 10 p.111: Denis, Daniel and Patrick Roche. These men, however, were tried in Co. Kerry; they were all ordered to be discharged 1856-1857.

⁶⁹ *Freeman's Journal* 26 March 1850 p.1.col.6. No further record of Hurley has been located.

⁷⁰ *Kerry Examiner and Munster General Observer* 27 July 1850 p.3 col.3. One of the men was Timothy Leyne; NAI, GPO TR9 p.47. Leyne died at Spike Island, Cork, in 1853. The only female arsonist from Kerry was Mary Leyne; she had a brother Tim: see AOT, CON 15/7 Mary Leyne *Blackfriar* 1851 No.489. The other men were Patrick Murphy and Timothy Connell. Connell died at Spike Island in 1852. Murphy arrived in Van Diemen's Land on the *Rodney* (3) in 1853: see AOT, CON 33/113. The Irish Transportation Registers recorded the trial date as 23 July 1849, not 1850.

⁷¹ *Freeman's Journal* 21 July 1851 p.4 col.5. See also NAI, GPO TR11 p.100. Deedy was ordered to be discharged in September 1855.

February, he set fire to a stable and barn. He confessed to the crime, and was 'secured' and then committed for trial. He explained that:

He was tired of his life, that he had nothing to eat, nor a place to sleep, but lying out night, and he did so to be transported.⁷²

In 1852, John M'Gauran, 'a low stout-built young fellow, aged about eighteen years', was charged with setting fire to a Dublin workhouse where he was a resident pauper.⁷³ He had been heard plotting with other pauper boys as to how they could get themselves transported:

In about ten minutes after he procured a lighted rag, proceeded to a straw house, and deliberately set fire to its contents, to the endangering of the whole building.⁷⁴

He was sentenced to transportation for fifteen years. Clearly, deliberately committing arson in order to be transported was not confined to Irish women, though the proportion of female deliberate arsonists was significantly higher than any other group.

Famine, poverty and crime

The dramatic increase in numbers of Irish female arsonists generally, and deliberate arsonists specifically, took place against the backdrop of the Famine and its aftermath.⁷⁵ The Irish population increased significantly in the first half of the

⁷² *Limerick Reporter* 20 February 1852 p.2 col.4. See also NAI, GPO TR12 p.135: Thomas Crough was tried for setting fire to a house; he died at Spike Island in April 1852.

⁷³ *Freeman's Journal* 6 January 1852 p.1 col.5. See also *Freeman's Journal* 8 January 1852 p.4 col.2; *Tipperary Free Press* 10 January 1852 p.3 col.2; and NAI, GPO TR12 p.48: John 'McGowran', aged 16.

⁷⁴ *Freeman's Journal* 11 February 1852 p.4 col.6.

⁷⁵ A summary of recent historiographical work on the Famine can be found in Mary E. Daly, 'Historians and the Famine: a beleaguered species?', *Irish Historical Studies*, Vol.30, No.120, November 1997, pp.591-601. See also Cecil Woodham-Smith, *The Great Hunger. Ireland 1845-9*,

nineteenth century; by 1845, it had reached about 8.5 million.⁷⁶ Although recent research has suggested that population growth was slackening before the Famine, partly because of migration,⁷⁷ the increase in population led to changes in land practice and pressure on the land; areas usually fallow were cultivated, and land was divided into increasingly smaller plots.⁷⁸ According to Cecil Woodham-Smith, 'Unless an Irish labourer could get hold of a patch of land and grow potatoes on which to feed himself and his children, his family starved ... the possession of a piece of land was literally a matter of life and death.'⁷⁹ For the agricultural labourers and cottier class in Ireland in the 1840s, the potato was a staple food; at least one-third of the population was dependent upon it.⁸⁰ In 1845, the previously unknown fungal disease *phytophthora infestans* was introduced to Ireland, resulting in potato blight.⁸¹ The blight returned in following years, creating a cataclysm on a vast scale.⁸²

London, 1962; and Christine Kinealy, *The Great Irish Famine. Impact. Ideology and Rebellion*, Houndmills, Hampshire and New York, 2002, pp.2-17.

⁷⁶ Exact population numbers are difficult to establish. The first Irish Census took place in 1821 and was conducted at ten-yearly intervals. The first reliable figures, however, are considered to be the Census of 1841. Compulsory civil registration of births did not commence until 1864. For a discussion of the reasons for population growth, see Woodham-Smith, *The Great Hunger*, pp.29-31. See also Cormac Ó Gráda, 'Poverty, population, and agriculture, 1801-45 in W.E. Vaughan (ed.), *A new history of Ireland, V: Ireland under the union, I: 1801-70*, Oxford, 1989, pp.108-136.

⁷⁷ Cormac Ó Gráda, *Ireland: A New Economic History*, Oxford, 1994, p.6. See also S.G. Daultrey, D. Dickson, and C. Ó Gráda, 'Eighteenth Century Irish Population: New Perspectives from Old Sources', *Journal of Economic History*, Vol. 41, No.3, 1981, pp.601-728; J. Lee, 'On the Accuracy of the Pre-Famine Irish Censuses' in J.M. Goldstrom and L.A. Clarkson (eds.), *Population, Economy and Society*, Oxford, 1981, pp.37-56.

⁷⁸ Ó Gráda, *Ireland: A New Economic History*, p.5. According to Ó Gráda, the agricultural population per tilled acre was probably the highest in Europe. See also Kevin Whelan, 'Pre and Post-Famine Landscape Change' in Cathal Póirtéir (ed.), *The Great Irish Famine*, Cork, 1995, pp.19-33; Woodham-Smith, *The Great Hunger*, pp.31-35.

⁷⁹ Woodham-Smith, *The Great Hunger*, p.32.

⁸⁰ Ó Gráda, *Ireland: A New Economic History*, p.20.

⁸¹ Woodham-Smith, *The Great Hunger*, pp.94-102.

⁸² Whelan, 'Pre and Post-Famine Landscape Change', pp.19-13; E. Margaret Crawford, 'Food and Famine' in Póirtéir (ed.), *The Great Irish Famine*, pp.60-73.

Historiographically, one of the dominant images of the ordinary Irish convict is that of the Famine victim forced to crime to survive. The nexus between poverty and crime has been well-documented, and not just in an Irish context. Emsley referred to the link between crime and economic depression and gave a number of examples of theft motivated by economic distress. He cited the example of sixteen-year-old William Dennison, who appeared at the Old Bailey in 1816 for stealing a coat. Dennison admitted the theft but said that he had done so from distress.⁸³ Phillips noted a similar trend in committal statistics in the 1830s and 1840s in England's Black Country.⁸⁴ Distress was often cited as a mitigating factor and there is some evidence that it was effective.⁸⁵ If this was the case, there may have been no need to resort to transportation as a remedy for distressed circumstances. Rudé included in his category of survival crime those who stated they deliberately committed crime to be transported in order to alleviate distress.⁸⁶ No study has been made of the extent of 'courting transportation' and it is difficult to determine its scope. Isolated instances have been noted, however: Rudé, for example, reported the English case in 1839 of an unemployed sailor who stole a jacket because he was 'in distress' and who added that: 'I did it on purpose to be transported.'⁸⁷

In Ireland, economic distress, starvation and poverty in the aftermath of the Famine were unparalleled. There is no doubt that the Famine caused massive dislocation in

⁸³ Clive Emsley, *Crime and Society in England 1750-1900*, London, 1987, pp.32-33.

⁸⁴ David Phillips, *Crime and Authority in Victorian England*, London, 1977, pp.145-146, 163-164.

⁸⁵ See, for example, Rudé, *Criminal and Victim*, pp.81-85. See also Emsley, *Crime and Society in England* and Phillips, *Crime and Authority*.

⁸⁶ Rudé, *Criminal and Victim*, p.84.

⁸⁷ Rudé, *Criminal and Victim*, p.84.

Irish society. In 1848, the *Cork Express* reported growing famine-related crime: in Skibbereen, for example,

Tis utterly impossible to give even an outline of the wretchedness and misery that surround us here; our town presents nothing but a moving mass of military and police, conveying to and from the Courthouse crowds of Famine culprits. I attended the court for a few hours this day. The dock was crowded with the prisoners, not one of whom, when called up for trial, was able to support himself in front of the dock. The sentence of the court was received by each prisoner with apparent satisfaction. Even transportation appeared to many to be a relaxation from their suffering.⁸⁸

The rise in crime was most often attributed to desperation to obtain food or the money to buy it. At Nenagh and Cashel Quarter Sessions in July 1849, Mr Sergeant Howley spoke at length about the increase in cases before him, but refused to call it crime, and said it was caused by destitution: 'the great number of cases is owing mainly to the intense suffering the labouring population are undergoing'.⁸⁹ Gaols and bridewells were overcrowded. At Nenagh Gaol, for example, there were 800 prisoners: 'All the vagrant misery that cannot yet shelter elsewhere in the country endeavours to find its way into this prison'.⁹⁰ There were food riots, sheep, cattle and crop stealing, and people and property were attacked. The greatest rise was in non-violent offences against property, which rose threefold during the Famine.⁹¹ The increase in crimes against the person was minimal. According to Cathal Póirtéir, the

⁸⁸ *Cork Examiner* 22 May 1848 p.2 col.7.

⁸⁹ *Tipperary Vindicator* 14 July 1849 p.3 col.2 (Nenagh Quarter Sessions); 4 July 1849 p.1 col.6 (Cashel Quarter Sessions). See also *Tipperary Vindicator* 23 June 1849 p.2 col.6 (Carrick-on-Suir Quarter Sessions). For destitution and crime in Mayo, see, for example, NAI, CSO Outrage Papers, 1848 Mayo 21/12, 21/45, and 1849 Mayo 21/15, 21/285.

⁹⁰ *Tipperary Vindicator* 4 July 1849 p.2 col.4. In 1849, Cork County Goal held over 1500; it was designed for 400; *Roscommon and Leitrim Gazette* 21 April 1849 p.1 col.4. Limerick Gaol, built to accommodate 150, had 761 prisoners (204 for transportation); *Limerick & Clare Examiner* 14 July 1849 p.1 col.5.

⁹¹ Cathal Póirtéir, *Famine Echoes*, Dublin, 1995, p.68.

rise and fall in recorded crime seems to have coincided with the course of the Famine itself and the desperation for food which accompanied it.⁹²

By 1849, the rising crime rate was increasingly being commented upon in the Irish press.⁹³ In July 1849, the *Freeman's Journal* wrote of the large number of prisoners pleading guilty to charges of larceny, and sheep and cattle stealing, who alleged in excuse that they were driven to the commission of crime by absolute want and starvation. Many were ordered to be discharged, the judge being of the opinion that they had already suffered imprisonment commensurate with their respective offence.⁹⁴ Michael O'Shaughnessy, Assistant Barrister, stated: 'I am satisfied that they had no alternative but starvation or the commission of crime.'⁹⁵

As well as an increase in crime due to hunger, it was believed to be common for people to commit crime deliberately in order to secure some temporary relief from hardship, desperation and distress.⁹⁶ There is evidence that seeking relief in prison was widespread, particularly in the aftermath of the Famine.⁹⁷ In 1849, the *Freeman's Journal*, under the heading 'What things have come to at last', commented:

⁹² Póirtéir, *Famine Echoes*, p.68.

⁹³ See, for example, *Cork Examiner* 28 June 1850 p.4 col.6: 'Prisons of Ireland'.

⁹⁴ *Freeman's Journal* 24 July 1849 p.4 col.6.

⁹⁵ Woodham-Smith, *The Great Hunger*, pp.376-377.

⁹⁶ *Freeman's Journal* 24 July 1849 p.4 col.6.

⁹⁷ For conditions on Irish prisons, although for a slightly later period, see R.S. Hinde, 'Sir Walter Crofton and the Reform of the Irish Convict System 1854-1861', *Irish Jurist*, Vol.12, 1977, pp.115-147, 295-338. See also Rena Lohan, 'The Management of female convicts'.

It is now a common occurrence for ablebodied, but starving men, uncharged with crime, to present themselves at the door of our country prison, and beg for admission. Many commit crimes with the design of qualifying for a residence there, and a comparatively abundant supply of the necessaries of life. Others, however, less cunning or more scrupulous, make a pilgrimage to its walls, in the hope of gaining admittance and prolonging their lives, without acquiring the necessary title of guilt.⁹⁸

In March 1851, Mr Justice Jackson, opening the Spring Assizes in Limerick, noted that at the end of 1849, there had been 546 prisoners in the 181-cell Limerick gaol, but this had since grown to 567. He went on to comment that the prison diet had 'actually [been] better than that given to poor people shut up in a workhouse, who never committed crime', but this had been remedied: 'I am very glad, gentlemen, that the dietary has been changed, for persons used actually commit crime for the purpose of getting into gaol'.⁹⁹

It was also common for those convicted of crime to plead for transportation. In 1849, the House of Commons expressed horror that young men on trial often begged the courts to pass sentences of transportation upon them.¹⁰⁰ Woodham-Smith cited the example of Michael O'Shaughnessy, Assistant Barrister (a judicial officer appointed by the Crown and theoretically independent of local influence) in Mayo who was asked, repeatedly, by people under the age of eighteen for sentences of transportation.¹⁰¹

⁹⁸ *Freeman's Journal* 12 April 1849 p.3 col.5.

⁹⁹ *Limerick Reporter and Tipperary Vindicator*, 4 March 1851 p.3 col.1. See also *Limerick and Clare Examiner* 14 July 1849 p.1 col.5; *Freeman's Journal* 17 September 1850 p.2 cols.2-5; 19 September 1850 p.2 cols.2-3; *Waterford News* 9 March 1849; *Limerick and Clare Examiner* 17 April 1850 p.4 col.4; *Limerick Reporter and Tipperary Vindicator* 6 July 1852 p.4 col.5.

¹⁰⁰ Woodham-Smith, *The Great Hunger*, p.376.

¹⁰¹ Woodham-Smith, *The Great Hunger*, p.376.

In the years preceding the Famine in Ireland, there had been a number of reports of crimes being committed in order to secure transportation. These were most commonly associated with poverty and distressed circumstances: although the poverty arising from the Famine is well-documented, the Irish people were subject to hard economic conditions for many years before 1846.¹⁰² There were also pre-Famine examples of prisoners simply seeking to alleviate distress through imprisonment.¹⁰³ On the other hand, there were those who pleaded for transportation after they received a sentence of imprisonment.¹⁰⁴ Similarly, there are examples of prisoners who do not appear to have admitted to courting transportation, but who expressed gratitude and pleasure at receiving such a sentence. Perhaps some of these exclamations may have been attempts at bravado and saving face, but, as with the question of motivation, it is often difficult to tell. In 1844, Robert Leslie, charged with felony of keys, expressed his pleasure at receiving a sentence of transportation: 'The prisoner thanked the court, and with an air of apparent satisfaction, said he was glad to be transported.'¹⁰⁵ In 1846, Peter Carr, described as 'an old offender', was charged with stealing a cow. Found guilty and sentenced to transportation for ten

¹⁰² See, for example, *Freeman's Journal* 14 February 1842 p.3 col.3; *Freeman's Journal* 23 February 1842 p.3 col.4. See also *Freeman's Journal* 1 November 1843 p.3 col.5: two Englishmen, John Anderson and John Whitbread, gave themselves up to the Irish police, stating that they had killed a sheep and roasted part of it on a lime kiln; they had done so in order to be transported. See also *Freeman's Journal* 27 July 1844 p.1 col.5: in July 1844, at the North Tipperary Assizes, a woman named Liston pleaded guilty to a charge of vagrancy, saying that she wished to be transported. Liston was sentenced to 3 months' imprisonment, and was to be transported for 7 years if she breached a security of £5.

¹⁰³ *Freeman's Journal* 28 June 1845 p.4 col.5: John Armstrong was charged with breaking a large square of plate glass and admitted that he done so 'for the purpose of being sent to prison'.

¹⁰⁴ *Freeman's Journal* 29 December 1845: Joseph Nowlan, sentenced to 6 months' imprisonment for stealing a chain, 'burst into tears, and begged of his lordship to transport him.'

¹⁰⁵ *Freeman's Journal* 1 November 1844 p.4 col.3-4.

years, he reportedly gave 'a loud whoop, and jumped away from the bar amid much laughter.'¹⁰⁶ James Doherty, tried for stealing three ewes at Londonderry Assizes on St Patrick's Day in 1846, was sentenced to transportation for ten years. According to the newspaper report,

When the sentence was passed, the prisoner in the most affected mock gravity, said – "Thank-you, my lord. That's a good Patrick's pot for me. I hope to see you in Van Diemen's Land yet".¹⁰⁷

Not all deliberate offences were committed to alleviate immediate distress.¹⁰⁸ Some prisoners expressed a desire to join a spouse or other family member. The phenomenon of 'courting transportation' in order to join a spouse or family member was an established pattern at least as early as 1841, when the *Mary Anne III* (2) arrived in Van Diemen's Land directly from Ireland.¹⁰⁹ Two women aboard the *Mary Anne III* confessed that they committed their offences deliberately. Interestingly, both were tried in Monaghan in October 1840 and both stated that they committed the crime in order to join husbands transported to Sydney. Catherine Moynagh or Reilley was sentenced to transportation for seven years for larceny, stealing thirty yards of stuff for a gown. She stated that she committed the offence 'to go out' to her husband, Patrick Riley, transported to Sydney.¹¹⁰ Moynagh's shipmate, Alice

¹⁰⁶ *Freeman's Journal* 10 February 1846 p.3 col.2.

¹⁰⁷ *Freeman's Journal* 21 March 1846 p.4 col.2.

¹⁰⁸ Williams, *Ordered to the Island*, p.77: Thomas Martin purposely stole a cow in order to be transported because he remembered the colony from 20 years before when aboard a ship carrying convicts and wished to return. See also AOT, CON 33/18 Thomas Martin *Richard Webb* 1842 No.4402.

¹⁰⁹ Jennifer Parrott, 'For the Moral Good? The Government Scheme to unite Convicts with their Families 1818-1843', unpublished Master of Humanities Thesis, University of Tasmania, 1994, pp.87-88: a number of Irish women transported to NSW from Cork in 1828 whose husband or family had been transported to NSW or VDL.

¹¹⁰ AOT, CON 40/8 Catherine Monagh or Reilley *Mary Anne III* (2) 1841 No.336. Four of her five children accompanied her on the *Mary Anne III* and were admitted to the Queen's Orphan School in

Anderson, also confessed to deliberately committing larceny – stealing three pounds from a man’s pocket – in order to be transported to join her convict husband, Hugh Kelly, sent to Sydney four years before.¹¹¹

There are also later examples of those who deliberately offended in order to join a family member or loved one. Mary Ann King, charged with having stolen a quantity of iron in Dublin in 1846, admitted to the robbery and stated that she did so in order that she might be sent after her husband, who was transported ‘some time ago’.¹¹² In Clare in 1849, Mary Cooly and Judith Beaky were found guilty of stealing a sheep; a witness testified: ‘They said they wanted to be transported as their two husbands were.’¹¹³ Twenty-two-year-old Mary McGrath was tried for cow stealing in Clare in 1849; she confessed, ‘I was transported for the purpose to join my husband’, who she left in the county gaol.¹¹⁴ Williams cited the example of Galway cowstealer Ann Mannion, whose four children had been transported; although he stated that she was ‘lonely’, he did not provide evidence to support this.¹¹⁵ It is possible that some of the desire to follow family members was related to the economic vulnerability of single women.

Hobart on arrival: AOT, SWD 28/1 pp.15,18: Nancy Riley (12), Mary Riley (5), James Riley (3) and Catherine Riley (2) were all admitted to the Orphan School on 6 April 1841.

¹¹¹ AOT, CON 40/2 Alice Anderson *Mary Anne III* (2) 1841 No.133. She had 2 children but it is not recorded whether they accompanied her.

¹¹² *Freeman's Journal* 6 February 1846 p.4 col.2.

¹¹³ *Clare Journal* 5 March 1849 p.3.

¹¹⁴ AOT, CON 41/26 and CON 15/6 Mary McGrath *Earl Grey* 1850 No.1113. Her 9-month-old child, Mary, came with her.

¹¹⁵ Williams, *Ordered to the Island*, p.71. See also AOT, CON 41/24 and CON 15/6 Ann Mannion *Australasia* 1849 No.1034: she stated that she ‘committed the offence to be with my family.’

Although it is obvious that the pattern of seeking transportation or requesting transportation once convicted was established in Ireland before the Famine, there was unquestionably a strong link between the Famine and courting transportation.¹¹⁶ Davis concluded that the considerable numbers who committed crimes deliberately in order to be transported were most significantly associated with the Famine.¹¹⁷ Woodham-Smith, writing of Ireland in 1849, stated that gaols had 'already become a refuge, and men had committed crimes to be transported out of Ireland. Destitute young people, even children of twelve, now courted transportation to escape from Ireland'.¹¹⁸ Irish authorities expressed the view that starvation had greatly diminished the terror felt by the Irish at the prospect of being severed from their home, and that this encouraged them to find ways to leave.¹¹⁹ At Westport, when seventeen-year-old Dominic Ginelly was charged with stealing hemp ropes, he said he wanted to be transported and would do the same again; he was transported for seven years.¹²⁰ A youth named Owen Eady, asked if he knew what transportation meant, said that even if he had chains on his legs, he would have something to eat; anything was better than starving and sleeping out at night.¹²¹ The *Freeman's Journal* also published extracts from county newspapers, which expressed views similar to that of the *Clare Journal*

¹¹⁶ Williams, *Ordered to the Island*, p.74; Davis, 'Not So Bad as a Bad Marriage', p.55.

¹¹⁷ Davis, 'Not So Bad as a Bad Marriage', p.55.

¹¹⁸ Woodham-Smith, *The Great Hunger*, p.376.

¹¹⁹ Williams, *Ordered to the Island*, p.74: AOT, GO 1/75 T. Redington to H. Waddington 27 June 1849.

¹²⁰ Woodham-Smith, *The Great Hunger*, p.376. NB: an arsonist named Dominick Gillooley was transported to Van Diemen's Land but this was a different person: see AOT, CON 33/113 Dominick Gillooley *Rodney* (3) 1853 No.7355.

¹²¹ Woodham-Smith, *The Great Hunger*, p.376.

which stated that: 'The idea is becoming prevalent among these unfortunate people that it would be much better for them to be transported than remain in the country.'¹²²

Numbers of those seeking transportation increased so dramatically during the course of the Famine that they were frequently the subject of public comment. In April 1849, the Archbishop of Tuam wrote to the *Freeman's Journal*, reporting that

several of those who were convicted of taking cattle or other property, sought with eagerness transportation as a boon, quite disappointed if refused to them. And among those candidates for exile from his unfortunate country was a young boy who imploringly besought the judge not to deny him the mercy of transportation. It was, it seems, apprehended that the young creature was not quite aware of the penal fate of chains and labour which he was courting by acquiescence in his importunate prayer. When he was, therefore, remonstrated with, and asked if he knew that such convicts were doomed for years to bolts and hard labour, his reply was that he knew it well, but added that he would be fed, and that any fate was better than that of dying, like his countrymen by starvation.¹²³

There are many similar instances. In 1846, Thomas Boyle, indicted for assaulting a young girl and stealing a shawl from her, pleaded: 'My Lords, I hope you will take into consideration and transport me; I can't get anything to do in this country, and if you don't transport me I will only be a trouble to the court hereafter'.¹²⁴ He was sentenced to transportation for ten years.¹²⁵ In Limerick, in December 1846, Charles Bentley, 'a country man', deliberately dashed his hand through a pane of glass, and stole a silver watch from the window. He stood there until he was arrested, and stated that he had committed the offence 'with the view of being transported'.¹²⁶ Clearly,

¹²² *Freeman's Journal* 17 January 1849 p.4 col.5.

¹²³ *Freeman's Journal* 30 April 1849 p.2 col.6.

¹²⁴ *Freeman's Journal* 9 February 1846 p.4 col.1.

¹²⁵ *Freeman's Journal* 9 February 1846 p.4 col.1.

¹²⁶ *Freeman's Journal* 18 December 1846 p.2 col.1.

the pattern of courting transportation as a remedy for poverty, starvation and distressed circumstances was deeply embedded in Ireland by the 1840s.

According to the *Freeman's Journal*, people were still dying of hunger in some areas, such as Nenagh, as late as 1850.¹²⁷ Lord John Russell's claim that the Famine had ceased provoked an outpouring of denial: one letter claimed that in the Kilrush workhouse, there were 'three hundred human beings prostrated by Famine, and 150 more in fever, all laid low by hunger and cold.'¹²⁸ Similar claims were made from other workhouses, including Castlebar in Mayo and Scariff.¹²⁹ At the Clare Assizes, it was noted that:

No less than seven women and a little boy were convicted on charges of houseburning. In most cases it appeared that no relief, either in the workhouse or out of it, could ... be procured, and that the destitution which prompted the offences was extreme.¹³⁰

Throughout 1850 and 1851, the *Freeman's Journal* published numerous reports of starvation, destitution and death, particularly in Clare and Limerick.¹³¹ A report from the *Nenagh Guardian* commented on the 'miserable and wretched appearance' and 'abject poverty' of contemporary criminals, 'some of whom were actually half naked, and without either caps or hoes [sic] to cover their heads or feet' – contrasting them to earlier prisoners – 'the well-fed farmer and his servant boy' carrying out 'some

¹²⁷ *Freeman's Journal* 25 February 1850 p.1 col.4. See Daly, 'Historians and the Famine', p.591, for comments on the cut-off point of the Famine.

¹²⁸ *Freeman's Journal* 26 February 1850 p.2 col.4. See also 5 March 1850 p.2 cols.1-2 (editorial); 18 October 1850 p.2 cols.2-3.

¹²⁹ *Freeman's Journal* 28 February 1850 p.2 cols.4-5.

¹³⁰ *Freeman's Journal* 4 March 1850 p.1 col.6.

¹³¹ *Freeman's Journal* 17 April 1850 p.3 col.5; 6 October 1850 p.3 col.2; 16 May 1851 p.2 col.2. See also *Limerick Reporter* 26 February 1850 p.2 col.3.

deed of glory or vengeance'.¹³² There were increasing numbers of vagrants and paupers, too. In 1851, the Mayor and Chief Magistrate of Limerick City reported that he had sent a number of paupers to the city gaol, because they were following him in the streets:

they tell me they are starving and beg of me for God's sake to send them into gaol, for if I did not they would die of hunger ... they must be fed wherever they come from'.¹³³

He had sent a number of people to the workhouse, 'on his ticket', and they had been refused admission, so he sent them to the gaol.

By 1849, there was growing awareness in Ireland of the increasing number of cases of arson, particularly by women. In July, the *Leinster Express* noted that:

The proceedings in the criminal court this day were remarkable by reason of the number of trials which took place successively for the same offence. No less than 10 separate cases of arson were brought forward. In some of the cases the motive of the prisoner was to obtain support while confined in gaol, but in the great majority the parties were actuated by feelings of revenge against the owners of property burned, though as a subterfuge to screen themselves from punishment they alleged they were driven by starvation to commit the crimes.¹³⁴

Initially, there was some confusion as to the cause of the increase. Judge Ball suspected that not all were cases motivated by revenge, commenting on those who 'perpetrated the crime for the purpose of being transported'.¹³⁵ In Tipperary in 1849, Mr Sergeant Stock also noted that incidents of arson were increasing and 'misery or

¹³² *Freeman's Journal* 17 January 1851 p.4 col.4.

¹³³ *Limerick Reporter & Tipperary Vindicator* 15 July 1851 p.1 col.4.

¹³⁴ *Leinster Express*, 4 July 1849 p.4 col.7.

¹³⁵ *Leinster Express* 4 July 1849 p.4 col.7.

destitution is no excuse or palliation for it.¹³⁶ In Clare, in March 1850, Judge Jackson attributed the rise in the number of women committing arson to hunger:

Several young women were convicted of arson. None of them made any defence. Judge Jackson said it was a melancholy thing to see so much destitution prevailing in the country, which had been the cause of a great deal of the crime imputed to the parties charged with arson, and other offences during the assizes. He ... had tried fourteen or fifteen cases of arson, in which the prisoners were all young women who had set fire to the houses for the sole purpose of obtaining food.¹³⁷

In July 1851, the Rt Hon Justice Moore, in opening the Tipperary South Riding Assizes, commented:

I am sorry to find that there are 12 persons charged with the serious offence of houseburning. I have examined the informations, and discovered the rather extraordinary fact that eleven of these persons are females. However, I have every reason to think, and it is satisfactory to know, that those offences are not connected with agrarian outrages, but have been committed for some personal or individual object.¹³⁸

Similar comments were made in March 1852, at the opening of both the Wexford Assizes and the Clonmel Spring Assizes: arson, according to Moore, was 'a crime which his lordship observed he found almost invariably committed by women'.¹³⁹

As well as to obtain food, young women committed arson in order to secure accommodation,¹⁴⁰ or in retaliation because they had been refused lodgings.¹⁴¹ At the

¹³⁶ *Tipperary Vindicator* 25 July 1849 p.2 col.4, sentencing Jeremiah Dwyer to transportation for 15 years.

¹³⁷ *Leinster Express* 9 March 1850 p.3 col.3.

¹³⁸ *Tipperary Free Press* 23 July 1851 p.2 col.4. See also *Limerick Reporter* and *Tipperary Vindicator* 25 July 1851 p.1 col.4.

¹³⁹ *Tipperary Free Press* 7 March 1852; 10 March 1852 p.1 col.3. See also *Wexford Independent* 28 February 1852 p.2 col.4: Sergeant Howley.

¹⁴⁰ *Tipperary Vindicator* 28 July 1849 p.1 col.3. (Johanna Fraser and Mary Ryan); *Tipperary Free Press* 15 March 1851 p.1 col.3 (Mary Murphy) and AOT, CON 41/33 Mary Murphy *John William Dare* 1852 No.1351.

¹⁴¹ *Cork Examiner* 27 September 1850 p.2 col.7 (Johanna Keefe and Margaret Ahern): they set fire to corn belonging to one of the Poor Law Guardians after being refused admission to the workhouse. See

Clare Assizes in February 1851, Margaret M'Donnell and Margaret Hickey, 'two miserable looking women', were found guilty of setting fire to a house at Scarff:

They alleged in exculpation that the prosecutors and themselves had arranged the plan as a means of obtaining subsistence, it being impossible to procure admission ... into the workhouse.¹⁴²

A witness was reported as giving

a melancholy account of the condition of these poor persons, who failed to procure admission to the workhouse. They used ... to congregate near the walls and gather materials for making fires, around which they used to spend the day in groups. It is stated the mortality in this workhouse has sometimes amounted to fifty persons in the week.¹⁴³

Believing that the two women 'desired to be transported', the judge sentenced them to two years' imprisonment with hard labour. On pronouncement of the sentence, Prisoner Hickey responded: "My lord, give me seven years, and I'd rather".¹⁴⁴ In Wexford in 1852, five young women appearing before Judge Moore were sentenced to seven years' transportation each. The *Leinster Express* commented that 'The only motive for such wanton acts of aggression being that they had not at once been given a nights lodging when asking for it'.¹⁴⁵

also *Limerick & Clare Examiner* 31 October 1849 p.2 col.4 (Anne Quinn); *Tipperary Free Press* 26 July 1851 p.3 col.4 (Margaret Carroll and Margaret Ryan).

¹⁴² *Freeman's Journal* 28 February 1851 p.4 col.6.

¹⁴³ *Freeman's Journal* 28 February 1851 p.4 col.6.

¹⁴⁴ *Freeman's Journal* 28 February 1851 p.4 col.6. See also *Clare Journal* 27 February 1851 p.2 col.2. In 1851, a woman named Margaret Hickey was tried with Mary Hickey, who arrived on the *Martin Luther*. In 1853, an arsonist from Wexford named Margaret O'Donnell was transported on the *Midlothian*. There is no evidence to suggest that these were the ones tried in Clare in 1851, although O'Donnell had a previous arson offence: *Wexford Independent* 3 March 1852 p.2 col.1. See AOT, CON 41/35 Mary Hickey *Martin Luther* 1852 No.955; AOT, CON 41/36 Margaret O'Donnell *Midlothian* 1853 No.136.

¹⁴⁵ *Leinster Express* 6 March 1852 p.4 col.4.

Richard Davis stressed that care must be taken to distinguish between those who genuinely sought transportation as a new way of life, and those who wanted the temporary relief of gaol. He cited the example of arsonists Mary Darcy, Bridget Trawley and Mary Power, who stated clearly that they wanted to be sent to prison where they would be fed.¹⁴⁶ Davis pointed out, too, that sometimes the information is conflicting, as in the case of the five Tipperary women tried for arson in 1849.¹⁴⁷ The case of Eliza Morrison and Mary Nowlan exemplifies this blurring of the edges. Eliza Morrison, from County Donegal, was tried in Kildare in 1849 with Mary Nowlan. Both were sentenced to transportation for life for arson. In Van Diemen's Land, Morrison stated her offence to be houseburning, adding: 'I committed the offence designedly to be transported.'¹⁴⁸ A newspaper report of the trial of the two women, however, indicates that they offended in order to get into gaol:

Constable Cox sworn – ... arrested the prisoners on suspicion, never saw them before, cautioned them; one of them said "there is no use denying it, it was we that did it with matches, and our reason for doing so was to get into gaol", they were strangers.¹⁴⁹

There was no need to commit arson in order to get into gaol. Many minor offences, such as breaking windows or larceny, would have secured imprisonment.¹⁵⁰

It seems, too, that offending in order to be sent to gaol could also be the first stage of courting transportation. In August 1851, a young woman named Bridget Furlong was

¹⁴⁶ Richard Davis, 'Not So Bad as a Bad Marriage', p.46.

¹⁴⁷ Davis, 'Not So Bad as a Bad Marriage', p.46: *Tipperary Free Press*, 21 March 1849; AOT, CON 41/26 *Earl Grey* 1850.

¹⁴⁸ AOT, CON 41/26 Eliza Morrison *Earl Grey* 1850 No.1093. See also Mary Nowlan 1st *Earl Grey* 1850 No.199.

¹⁴⁹ *Leinster Express* 21 July 1849 p.2 col.4.

¹⁵⁰ *Freeman's Journal* 19 January 1852 p.4 col.5.

caught in the act of setting fire to a house. She stated that she had been refused admission to the workhouse, and had attempted to set fire to the house 'in order to be sent to gaol, as she wished to be transported. She stated she was from Clonmel and was starving at the time'.¹⁵¹ In many cases, it is difficult to distinguish between those who sought temporary relief and those who wanted a more permanent solution to distress. It is not as clear-cut as Davis indicated.

Increasingly, arson was linked to courting transportation. The *Kerry Examiner & Munster General Observer* noted, of the Kerry Summer Assizes in 1850, that ten prisoners were to be tried for arson. Judge Ball commented:

In other parts of the circuit, in Limerick and in Clare, the offence is becoming very extensive, and the motive for committing it is, I fear, too generally prevailing, and that it is to get transported, under the impression of being better off there than here. Whether that motive prevails in this County or not I have no means of ascertaining. But it is a motive which requires the vigilance of the police and magistrates to check at once its inception.¹⁵²

The tenacity of the deliberate arsonists was remarkable. Ann Daley, transported in 1849, was found guilty of setting fire to a house near Kildare. According to the newspaper report of her trial, she 'confessed that she had set fire to two houses on the same night ... and that she would continue to do so in order that she might be transported.'¹⁵³

¹⁵¹ *Freeman's Journal* 28 August 1851 p.1 col.5 (citing *Waterford Mail*).

¹⁵² *Kerry Examiner & Munster General Observer* 27 July 1850 p.3 col.2.

¹⁵³ AOT, CON 41/22 Ann Daley *Australasia* 1849 No.677; *Freeman's Journal* 22 March 1849 p.4 col.5.

In summary, there was a significant increase in the numbers of women being transported for committing arson in Ireland from the late 1840s as well as an increasing number of women who indicated that they deliberately committed arson in order to be transported. This increase far outweighed that of the men. Courting transportation was primarily a response to distress and economic difficulty, and also provided a means of exercising agency. Large numbers committed arson because it was recognised, by the courts and in the community, that arson was an effective means of securing transportation.

The spread of the phenomenon

As can be seen in Figure 13, the Famine hit parts of the country more severely than others.¹⁵⁴ The majority of Irish convicts transported to Tasmania during the Famine came from Munster and Connaught, poorer provinces which suffered due to small subsistence farming and a very low standard of living.¹⁵⁵ Arson incidents were widespread in the south and south-west, the mostly severely Famine-ravaged parts of Ireland.¹⁵⁶ However, the Famine also had a devastating impact in counties like Mayo,¹⁵⁷ and no women were transported from there for arson. This is hard to explain. It may be related to sentencing patterns, but it is difficult to assess how

¹⁵⁴ See, however, Daly, 'Historians and the Famine', pp.596-597 for the historiographical underestimation of the impact of the Famine in Ulster. See also Christine Kinealy and Trevor Parkhill, *The Famine in Ulster*, Belfast, 1997.

¹⁵⁵ Williams, 'Irish Convicts in Tasmania', p.22.

¹⁵⁶ Williams, *Ordered to the Island*, p.22: According to Williams' study, during the Famine years, an increased proportion of Irish convicts came from the Famine-stricken counties of Cork, Kerry, Clare, Tipperary and Limerick in Munster and Galway and Mayo in Connaught. More than half of Ireland's Famine deaths occurred in these seven counties. Williams suggested that better economic conditions in Leinster and Ulster enabled people there to emigrate.

¹⁵⁷ For the impact of the Famine in Mayo, see Maureen Langan-Egan, 'Women in Mayo, 1821-1851', M.Ed., National University of Ireland, Galway, 1986, esp. pp.31-37. See also James G. Ryan, *Irish Records. Sources for Family and Local History*, Salt Lake City, 1988, p.341.

much impact individual judges had on the phenomenon. Perhaps in certain counties the willingness to give relatively light sentences of transportation, and the expectation of receiving them, may have been factor in encouraging the deliberate arsonists. The following three graphs show the trial place, by county, of Irish female arsonists, Irish male arsonists and the deliberate arsonists.

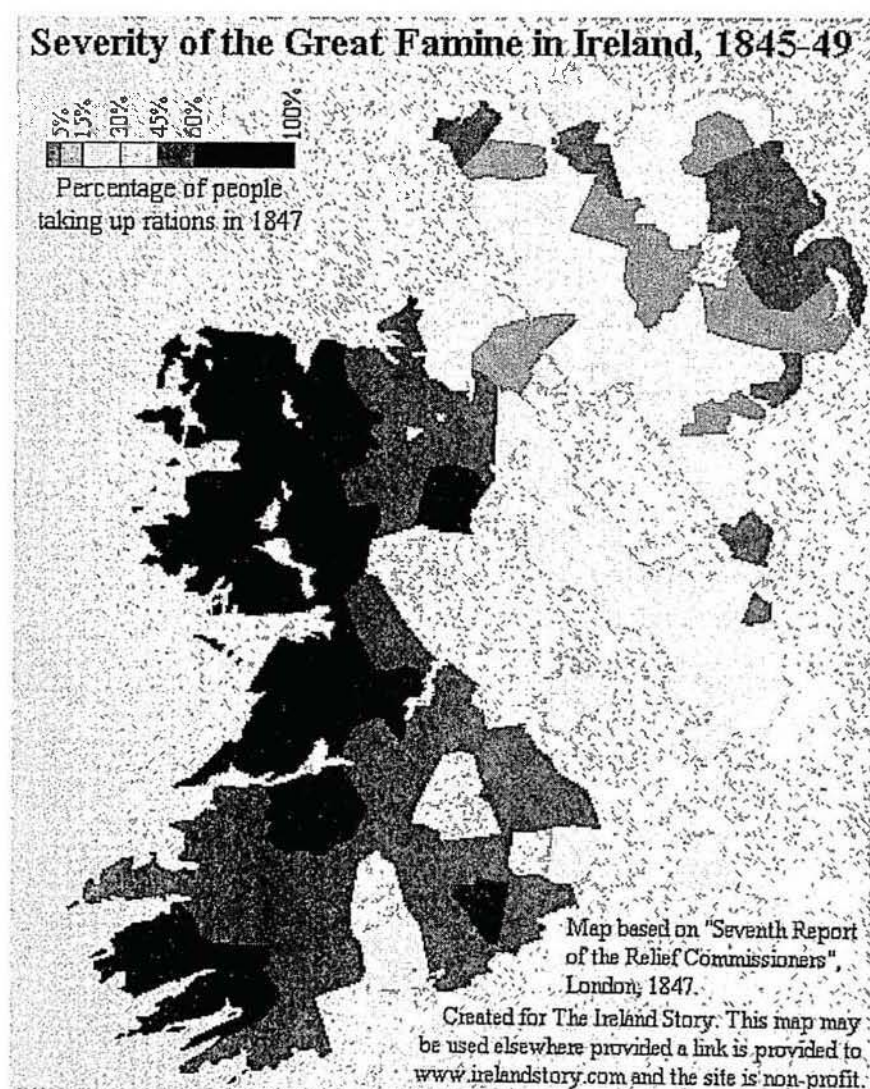


Figure 13: Map of Ireland showing impact of the Famine.

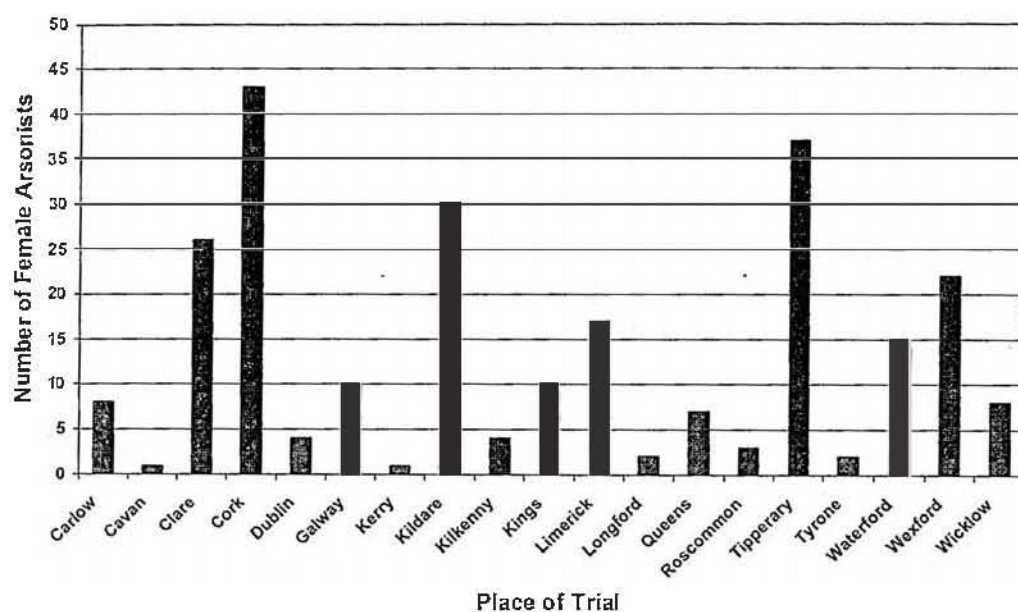


Figure 14: Trial place of female arsonists, 1848-1852 [n=248].

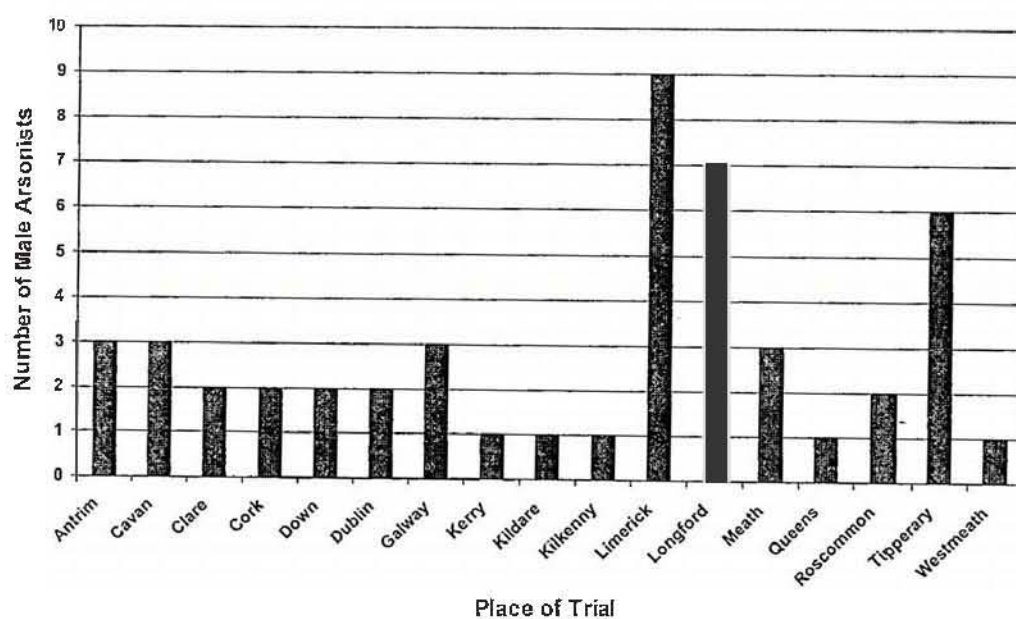


Figure 15: Trial place of male arsonists, 1848-1852 [n = 49].

As can be seen in Figure 14, the largest numbers of Irish female arsonists, overwhelmingly, were from Cork and Tipperary, followed by Kildare, Clare and Wexford. Male arsonists, on the other hand, were predominantly from Limerick, Longford and Tipperary. This can be seen in Figure 15.

As demonstrated in Figure 16, female arsonists from Tipperary, Cork, Kildare and Wexford were more likely to be recorded as having confessed to committing arson in order to be transported or imprisoned than other counties. It should be noted that many of the women were tried in groups, from two to five, and so the numbers as a result are distorted slightly. However, as most of those tried in groups were from those counties producing the highest number, the difference is not significant statistically.

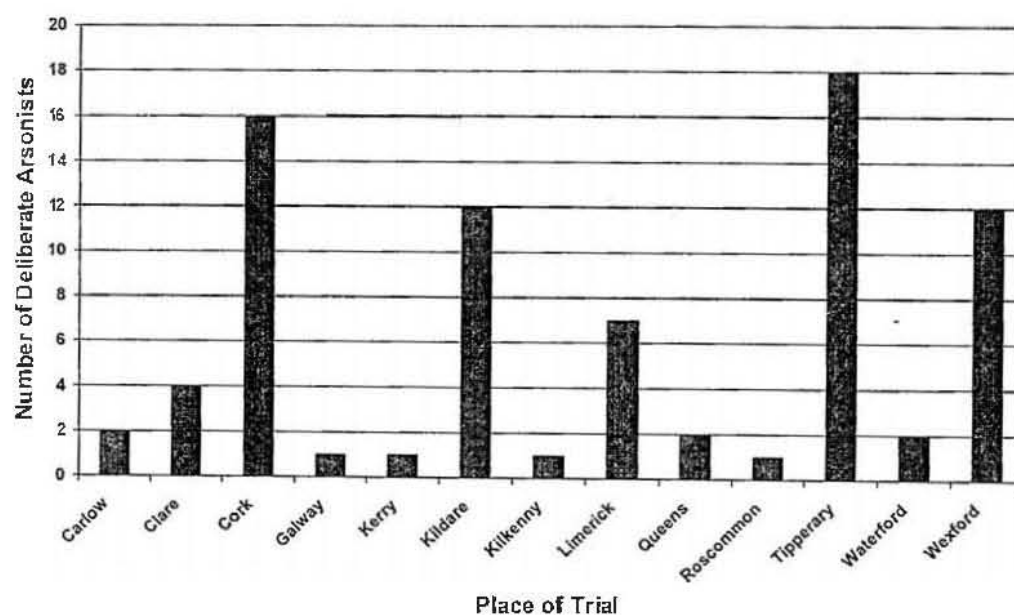


Figure 16: Trial place of deliberate arsonists, 1848-1852 [n=79].

Among the arsonists generally, there were significant changes in number and place over time. To begin with, numbers were high in Cork. Of the fifteen arsonists transported on the *Maria* (2) in 1849, fourteen were tried in County Cork. By 1853, Tipperary had higher numbers.¹⁵⁸ A similar trend is apparent with the deliberate arsonists.

Explaining the spread of the phenomenon of the deliberate arsonists is difficult. Many trial reports published in county newspapers may have contributed to its spread. In March 1850, the *Freeman's Journal* reported the case of Maurice Ready who burned a house in Cork. Ready, in a conversation with a woman, reportedly:

expressed a wish to know the punishment that would be awarded to a person who set fire to a house, and on learning that transportation was the probable doom, he stated that he had burned Morty Sullivan's house.¹⁵⁹

Changes in trial places over time may be related to the movement of women between counties, but this is difficult to prove. As shown in Figure 17, many of the deliberate arsonists were tried outside their recorded native place.¹⁶⁰

¹⁵⁸ For high levels of pauperism in Tipperary, see William Nolan and Thomas G. Magrath (eds.), *Tipperary: History and Society: Interdisciplinary Essays on the History of an Irish County*, Dublin, 1985. See also William Nolan, 'The 1848 Rising & Its Tipperary Background', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, pp.68-83. According to Nolan, 'The 1848 Rising', p.74, in one Tipperary parish, Kilcooley, 'it was reckoned that 5,000 of the 9,704 population were pauperized.'

¹⁵⁹ *Freeman's Journal* 26 March 1850 p.1 col.6. He appears to have been acquitted on a technicality.

¹⁶⁰ Not all had their Native Place recorded. Reid, 'Work, Sexuality and Resistance', pp.56-60, noted that for 23.1% in her study the native place was not known.

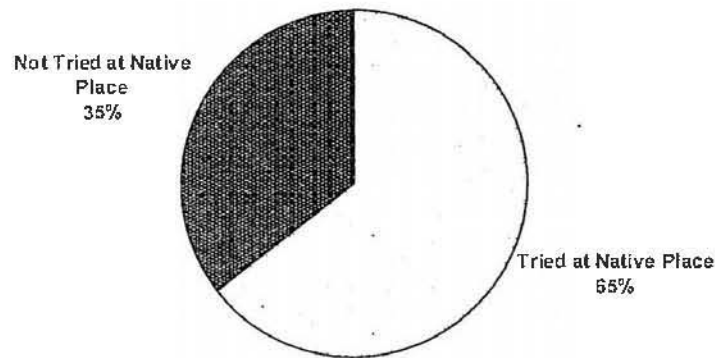


Figure 17: Place of trial of deliberate arsonists as it relates to native place [n=79].

All those tried in Galway or Roscommon were from other counties originally. This can be seen in Figure 18, which shows the proportion of deliberate arsonists tried outside their native place.¹⁶¹ Of the deliberate arsonists sentenced to transportation for life, more than half were tried outside their native place.¹⁶² Figure 19 demonstrates that deliberate arsonists from Donegal, Wicklow, King's County and Yorkshire were all tried away from their native place, while those from Galway, Clare, Kerry, Kildare and Queen's County were all tried at their native place.

¹⁶¹ Only one woman was tried in Kerry.

¹⁶² AOT, CON 41/35 Bridget McNamara *Martin Luther* No.1420 and Margaret McNamara No.1419; AOT, CON 41/22 Ann Daley *Australasia* 1849 No.677; AOT, CON 41/26 Catharine Conway *Blackfriar* 1851 No.1151; AOT, CON 41/35 Catherine Hayes *Martin Luther* 1852 No.947.

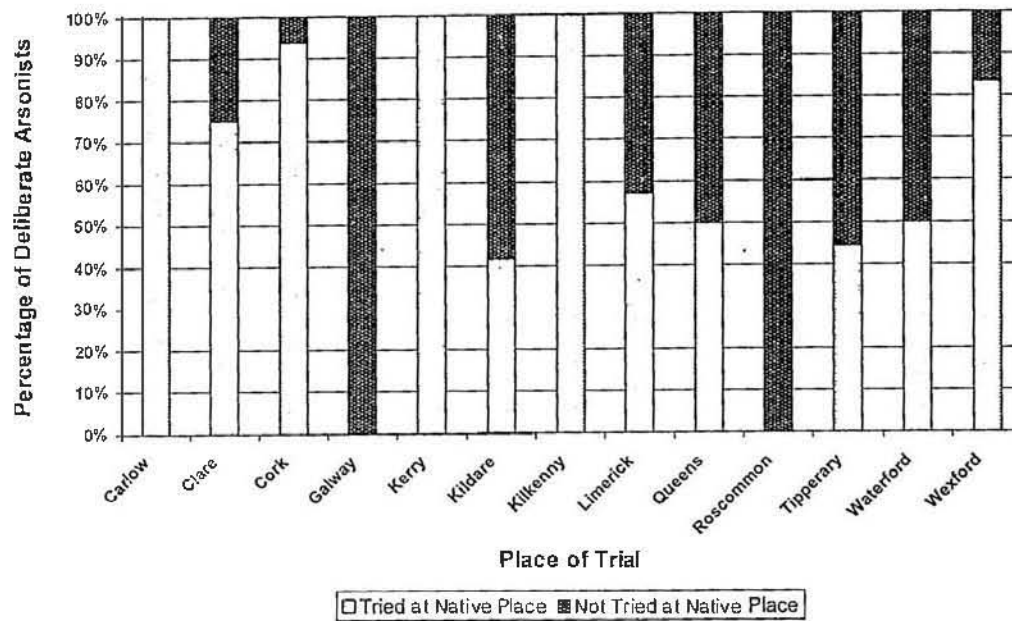


Figure 18: Deliberate arsonists by trial place, showing those tried outside native place [n=79].

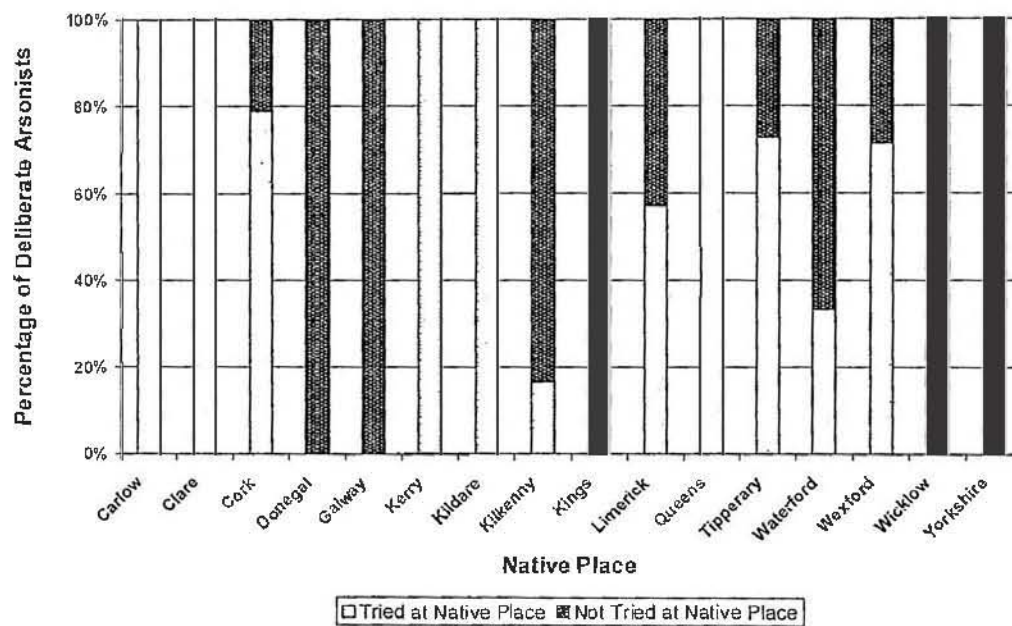


Figure 19: Deliberate arsonists by native place, showing those tried outside native place [n=79].

Such mobility was not unusual. The Irish economy was characterised by migration, which was particularly seasonally-based.¹⁶³ Oxley concluded that between birth and being tried and transported, 45 per cent of Irish convict women moved county at least once, with one-third of migrants crossing to England.¹⁶⁴ Reid and Williams both agreed that farm servants were the exception to the prevailing pattern of long-distance migration to urban destinations. Their migrations were mainly rural-rural and they usually travelled short distances, often only between neighbouring counties.¹⁶⁵ Williams also suggested that country servants tended to remain in their native place.¹⁶⁶

Many family members were separated by the dislocation caused by the Famine and migration. It is difficult to determine how much inter-county migration was influenced by family disaggregation and Famine dislocation. Ruth-Ann Harris argued that 'the experience of temporary migration taught Irish people how to take

¹⁶³ Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 2. The Irish in the New Communities*, London, 1992, p.14, commented on the development of a 'culture of migration' within Ireland. See also Cormac O Gráda, 'Seasonal migration and post-Famine adjustment in the West of Ireland', *Studia Hibernica*, Vol.13, 1973, pp.48-76.

¹⁶⁴ Oxley, *Convict Maids*, p.135. See also Reid, 'Work, Sexuality and Resistance' p.58: Reid concluded that a majority of convict women to Van Diemen's Land to 1839 (55%) were migrants before conviction, having been tried in places other than their native place. She argued that this was labour-market related. Her figures do not include intra-county migration. See also Stephen Nicholas & Peter Shergold, 'Intercounty Labour Mobility during the Industrial Revolution: Evidence from the Australian Transportation Records,' *Oxford Economic Papers*, Vol.39, 1987, pp.642-643; Stephen Nicholas & Peter Shergold, 'Internal Migration in England, 1818-1839', *Journal of Historical Geography*, Vol.13, No.2, 1987, pp.155-168. cf. the 'criminal vagrancy' theory of A.G.L. Shaw, *Convicts and the Colonies*, London, 1966, pp.159-60; M.B. Schedvin & C.B. Schedvin, 'The Nomadic Tribes of Urban Britain: A Prelude to Botany Bay,' *Historical Studies*, Vol.18, 1978-1979, pp.254-276; Alistair Davidson, *The Invisible State: The Formation of the Australian State, 1788-1901*, Cambridge, 1991, p.36.

¹⁶⁵ Reid, 'Work, Sexuality and Resistance', p.58; Williams, *Ordered to the Island*, p.18: he argued that migration was related to skill-level.

¹⁶⁶ Williams, *Ordered to the Island*, p.18: he found that nearly 1/3 of skilled men were convicted outside their native county, whereas only 10% of unskilled men were.

their fate into their own hands' in preparation for the Famine.¹⁶⁷ It may also have encouraged some to consider transportation as a form of emigration.

Only two of the women who were transported for arson from Ireland were not Irish-born. One does not appear to have been a deliberate arsonist.¹⁶⁸ The other, Mary Nowlan, was a twenty-two-year-old confectioner originally from Bradford in Yorkshire.¹⁶⁹ Mary Nowlan falls into that difficult category where she confessed to offending because she wanted to get into gaol, but expressed pleasure at being transported.¹⁷⁰ Her case highlights the difficulty of many 'strangers' or 'strolling mendicants', wandering women who could not secure accommodation or relief.

Sentencing patterns

The spread of the phenomenon may partly be related to different sentencing patterns. The increase in the number of deliberate arsonists appears to coincide with shorter sentences. Initially, in 1848-1849, sentences for arson were severe, but by 1852, all sentences were for seven years. This is demonstrated in Figure 20.

¹⁶⁷ Ruth-Ann Harris, 'Seasonal migration between Ireland and England prior to the Famine' in Donald H. Akenson (ed), *Occasional papers in rural history*, Vol.VII, p.383.

¹⁶⁸ AOT, CON 41/5 and CON 15/3 Mary Mulhair *Phoebe* 1845 No.556; *Leinster Express* 16 March 1844 p.2 col.2 (Mulhairn). She was a 23-year-old country servant from Guernsey, who had been brought up in King's County. She stated that her father, John, went to Guernsey as a soldier; her brothers, John and William, were also at Guernsey.

¹⁶⁹ AOT, CON 41/26 Mary Nowlan 1st *Earl Grey* 1850 No.199.

¹⁷⁰ *Leinster Express* 21 July 1849 p.2 col.4.

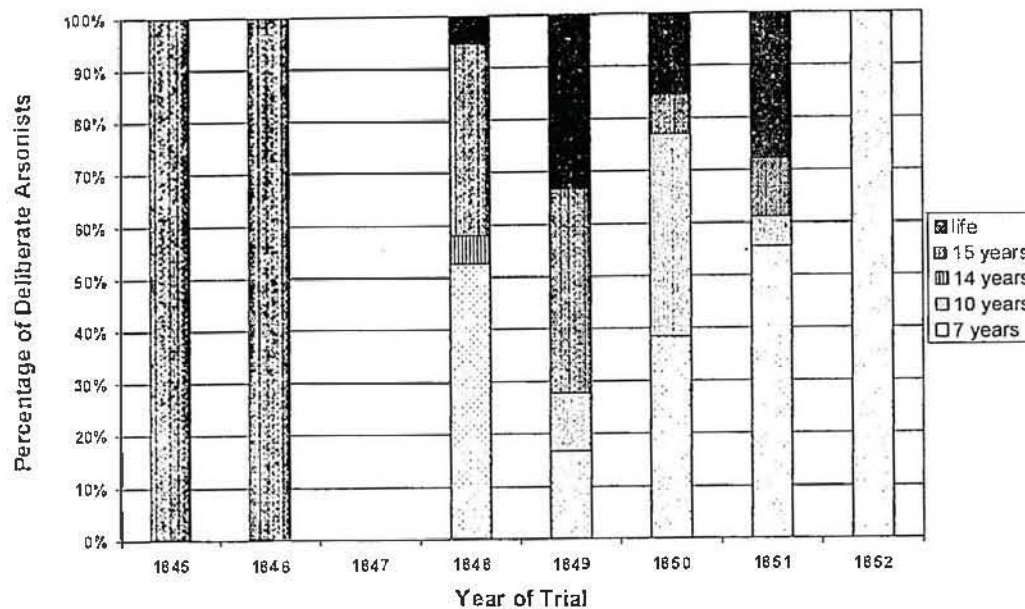


Figure 20 Length of sentence of deliberate arsonists by year, 1845-1852 [n=79].

Arson was still a capital offence in Ireland during the period when the deliberate arsonists were prevalent.¹⁷¹ In County Clare, in March 1850, Judge Jackson warned that young women committing arson ran the risk of incurring a capital offence:

The Crown had exhibited a great deal of lenity in preparing the indictments against [the several young women convicted of arson]. For if they had sent up the bills for the capital charge of setting houses on fire with inmates in them as they might have done he would have been obliged to have sentenced some of the young women to death – they had mercifully sent up the bills for the minor offence of arson, and he ... hoped what he was then saying would have the effect of guarding persons against the commission of an offence which might be the means of depriving them of life. As he had stated, the Crown acted with

¹⁷¹ For capital offences, see Rena Lohan, 'Sources in the National Archives' pp.13, 28: Lohan estimates that in 1823, the number of capital statutes totalled 2003; by the 1850s, the death penalty was restricted to murder and treason. Public execution ended in 1866. In the case of arson, it was only where the fire threatened life that the crime was considered a capital offence: see, for example, NAI, CRF 1850 L 19 and TR10 p.293: Eliza (or Elisha) Keating and Mary Lee were tried in Carlow in March 1850 and sentenced to death for burning a house with people in it. The sentence was commuted to transportation for life. Both women were transported on the *Duke of Cornwall*; Keating as 'Alicia' Keating: see AOT, CON 41/28 No.400 and No.476.

great leniency, but if the same class of offences were continued in the country, it was most likely the authorities would be obliged to take a more decided course for the protection of lives and property of the well disposed inhabitants of the county.¹⁷²

Two years later, Mr Sergeant Howley repeated the warning at the opening of the Clonmel Spring Assizes.¹⁷³ In 1852, Wexford arsonist, Margaret O'Donnell, escaped with a life sentence for arson after being charged with manslaughter:

HIS LORDSHIP took his seat on the bench this morning ... Margaret O'Donnell having been tried and found guilty for manslaughter at Enniscorthy.

The Court in passing sentence, observed that this crime was becoming so prevalent of late, that the law should be stringently executed in its punishment. The Crown might have indicted the prisoner for the capital offence, and in such case, she might have suffered the extreme penalty of the law for her misdeeds.

The Court then inquired if she was ever tried for any crime?

Mr Needham – She was, my Lord, for the very same offence.

The Court – Well, the arm of the law must not fail, and the public must be guarded against crimes of such horrible and wanton atrocity. The prisoner must be transported for life – the severest sentence that it is in my power to pass.

The prisoner heard the sentence unmoved; but screamed badly in about a quarter of an hour subsequently, on her removal from the Court.¹⁷⁴

In 1849, Margaret Byrne from Carlow had her death sentence, which was imposed as a result of an arson attempt on an occupied house, commuted to transportation for life. She stated that she had committed the crime in anticipation of a transportation sentence.¹⁷⁵ In 1852, Mary Kerrigan, described as 'a fine young woman',¹⁷⁶ and 'a

¹⁷² *Leinster Express* 9 March 1850 p.3 col.3. See also *Freeman's Journal* 4 March 1850 p.1 col.6.

¹⁷³ *Tipperary Free Press* 10 March 1852 p.1 col.3.

¹⁷⁴ *Wexford Independent* 3 March 1852 p.2 col.1. See also AOT, CON 41/36 and CON 15/8 Margaret O'Donnell *Midlothian* 1853 No.136.

¹⁷⁵ NAI, CRF 1849/B 25; NAI, GPO TR 9 1849 p.7; AOT, CON 41/26 and CON 15/6 Margaret Byrne *Earl Grey* 1850 No.1035.

¹⁷⁶ *Freeman's Journal* 17 July 1852 p.4 cols.4-5.

young and rather respectable looking country girl',¹⁷⁷ confessed to arson in County Galway and was sentenced to death because the house she set fire to was occupied. Her sentence was commuted to transportation for life.¹⁷⁸ The Irish Transportation Registers indicate that at least five women tried for arson, originally sentenced to death, had their sentence commuted to life imprisonment.¹⁷⁹ In most instances, life was threatened by the arson attack.

Yet Irish courts appear to have been reluctant to pass the death sentence, and no evidence of the sentence being carried out has been located during this study. When Margaret Connell, Margaret Cronin and Honora M'Carthy were tried in Cork in 1849 for setting fire to a dwelling-house, they were informed by the Assistant-Barrister that they were being treated leniently:

The Assistant-Barrister then addressed the prisoners, and told them that they had pleaded guilty to an offence for which, if they were strictly indicted, he would be obliged to sentence them to be hanged, but that the Crown Solicitor, with his usual clemency, having indicted them in the present form, relieved him of that painful necessity. However he should pass on them the next severest sentence of the law, and that [was that] they should be each transported for life, in order to

¹⁷⁷ *Galway Mercury* 17 July 1852 p.3 col.1.

¹⁷⁸ NAI, CRF 1852 K 17; NAI, GPO TR12 p.213; *Freeman's Journal* 17 July 1852 p.4 cols.4-5; *Galway Mercury* 17 July 1852 p.3 col.1. There is no record of Kerrigan's arrival in Van Diemen's Land.

¹⁷⁹ Rose Buchanan, the only woman transported from County Cavan to Van Diemen's Land for arson, was originally sentenced to death on 18 July 1851; this was commuted to transportation for life: NAI, GPO TR11 p.7; NAI, CRF 1851 B34; AOT, CON 41/33 Rose Buchanan *John William Dare* No.1154. Elisha (or Eliza) Keating, and Mary Lee, tried in County Carlow on 20 March 1850 for arson, also had their death sentences commuted to transportation for life: NAI, GPO TR 10 p.293; AOT, CRF 1850 L19; AOT, CON 41/28 Alicia Keating *Duke of Cornwall* 1850 No.400 and Mary Lee *Duke of Cornwall* 1850 No.476. Anne Kerry alias Anne Kenny, tried in County Galway on 29 July 1851 for arson, was sentenced to death but had her sentence commuted to transportation for 10 years: NAI, TR11 p.27; NAI, CRF 1851 K26; AOT, CON 41/33 Anne Kenny *John William Dare* 1851. See also *Galway Vindicator* 6 August 1851 p.4 col.6: Anne Kenny, arson, sentence of death recorded.

deter others from the commission of an offence, which was greatly on the increase in this county, where it was heretofore unknown.¹⁸⁰

If the women perceived arson as a light offence, they were misguided. It is true that some of them received sentences of seven years, and so were likely to receive a ticket-of-leave in three and a half years, but, as can be seen in Figure 21, over half of the deliberate arsonists received sentences of more than seven years.¹⁸¹

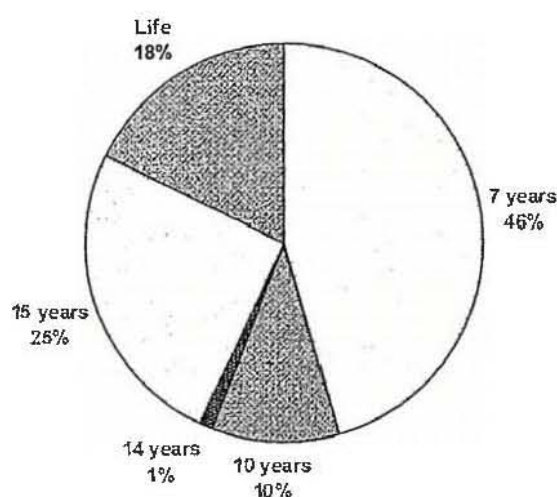


Figure 21: Length of sentence of deliberate arsonists, 1848-1852 [n=79].

Arson was considered a crime serious enough to incur a life sentence, as at least seven of the deliberate arsonists discovered.¹⁸² One was Susan Chickley, tried in

¹⁸⁰ *Cork Examiner* 30 March 1849 p.3 col.6 (Cork Sessions).

¹⁸¹ This is roughly consistent with Williams' findings: see Williams, *Ordered to the Island*, p.72.

¹⁸² Williams, *Ordered to the Island*, p.72; Champion, 'Not Hardened Offenders', p.31. Of the male arsonists, 13 received life sentences.

Cork and transported in 1849. She had one previous sentence of one month's imprisonment for stealing carrots. Although Susan was young, she stated that she had been 'on the town' for two years.¹⁸³ A year after her arrival in the colony, she was admitted to the New Norfolk Asylum for the Insane. Described initially as violent and quarrelsome, Susan Chickley's behaviour appears to have quietened after her spell in the Asylum. She had only one colonial offence recorded on her conduct record: she was given seven days in the cells for refusing to work in February 1850, shortly before her admission to the Asylum.¹⁸⁴ In 1866, as Susan Merrick, she appeared in the Oatlands Court on a charge of assault.¹⁸⁵ There is nothing on her conduct record to indicate that she warranted a life sentence. Nor did her colonial behaviour suggest that she was a hardened criminal.

Another to receive a life sentence was nineteen-year-old nursemaid, Eliza Guilfoyle, tried in Kildare in March 1849 for burning a house. She claimed to have committed the offence deliberately, and admitted to previous sentences of one month for stealing potatoes and two months for stealing clothes.¹⁸⁶ Sisters twenty-year-old Bridget and seventeen-year-old Margaret McNamara, who arrived together in 1852, also received

¹⁸³ AOT, CON 41/24 and CON 15/5 Susan Chickley *Australasia* 1849 No.1007. On arrival, her age was recorded as 16; a year later, interviewed on admission to the New Norfolk Asylum, she admitted that she did not know her age: AOT, HSD 246/8/Folio 139.

¹⁸⁴ AOT, CON 41/24 Susan Chickley *Australasia* 1849 No.1007.

¹⁸⁵ AOT, LC 390/5 Oatlands 22 January 1966: Susan Merrick pleaded guilty and was fined 10/- and costs, or 7 days' hard labour. The fine was paid.

¹⁸⁶ AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518.

life sentences. Both had one previous conviction. Neither had colonial offences, indicating that they were not toughened criminals.¹⁸⁷

In Limerick in 1851, Catherine Hayes, a twenty-seven-year-old country servant from County Cork, received a life sentence for burning a house. She stated that she committed the offence in order to be transported. Her gaol report stated that she had been convicted six times before, but the offences were not stated.¹⁸⁸

According to Williams, 'it seems Irish courts were reluctant to transport women on their first offence'.¹⁸⁹ Yet some of the deliberate arsonists who received life sentences had no previous convictions. A twenty-two-year-old country servant, Catharine Conway was sentenced to transportation for life for arson. It was her first offence. Her gaol report noted that she was 'very troublesome', although the surgeon's report noted that her behaviour was 'very good'.¹⁹⁰ Ann Daley, a twenty-two-year-old country servant from King's County, was tried in Kildare for burning a house, and, according to the *Freeman's Journal*, she claimed that she would continue to burn houses until she was transported. She also received a life sentence for her first offence.¹⁹¹

¹⁸⁷ AOT, CON 41/35 and CON 15/7 Bridget McNamara *Martin Luther* No.1420 and Margaret McNamara *Martin Luther* No.1419.

¹⁸⁸ AOT, CON 41/35 Catherine Hayes *Martin Luther* 1852 No .947.

¹⁸⁹ Williams, 'Irish Convicts in Tasmania', p.26.

¹⁹⁰ AOT, CON 41/30 Catharine Conway *Blackfriar* 1851 No.1151.

¹⁹¹ AOT, CON 41/22 Ann Daley *Australasia* 1849 No.677; *Freeman's Journal* 22 March 1849 p.4 col.5.

It is difficult to know why some received life sentences. It is tempting to assume that it was because the women had a criminal history, with several prior convictions. However, this does not stand up to examination. There is no apparent consistency between the length of sentence and the number of previous convictions. As noted elsewhere, there are also inconsistencies between the number of previous offences reported in the gaol report and the number admitted to by the convict in the arrival interview.

Of the fourteen who received life sentences, five were tried in counties outside their native place: the McNamara sisters were from Limerick but were tried in Tipperary; Ann Daley was from King's County but was tried in Kildare; Catherine Hayes was from Cork but tried in Limerick; and Catharine Conway was from Galway but was tried in Kildare.¹⁹² There were significant differences in the sentences received over time and across counties, as the following sections will demonstrate.

With one exception, a thirteen-year-old girl,¹⁹³ Irish female arsonists transported to Van Diemen's Land between 1841 and 1846, all received a sentence of life or fifteen

¹⁹² AOT, CON 41/35 and CON 15/7 Bridget McNamara *Martin Luther* No.1420 and Margaret McNamara *Martin Luther* No.1419; AOT, CON 41/22 Ann Daley *Australasia* 1849 No.677; AOT, CON 41/35 Catherine Hayes *Martin Luther* 1852 No.947; AOT, CON 41/30 Catharine Conway *Blackfriar* 1851 No.1151.

¹⁹³ NAI, CRF 1842 S20: Petition of Owen Smith; *Longford Journal* 16 July 1842 p.4 col.3; AOT, CON 40/10 Mary Smith *Waverley* 1842 No.681: Mary Smith initially received a heavier sentence (15 years) but this was reduced to 7 as the result of her father's petition in 1842.

years.¹⁹⁴ By 1847, however, a seven year sentence was more likely in some counties: several women tried in Cork and Kildare received seven year sentences.¹⁹⁵ In 1852, all deliberate arsonists received seven year sentences. This is demonstrated in Figure 20.

There also appear to be significant differences in the sentencing patterns from county to county, with some counties, such as Limerick, having a higher proportion of life sentences than others, like Clare, which had a higher number of arsonists overall but no life sentences. Only one female arsonist from Wexford, which had the highest proportion of deliberate arsonists, received a life sentence, and she stated that she had committed house robbery rather than arson.¹⁹⁶

¹⁹⁴ AOT, CON 40/14 Mary Ellis *Waverley* (2) 1842 No.114; AOT, CON 40/8 Bridget Murphy *Mexborough* 1841 No.372, AOT, CON 40/6 Mary Lahy *Mexborough* 1841 No.240; AOT, CON 40/2 Eliza Conway *Waverley* (2) 1842 No.547.

¹⁹⁵ AOT, CON 41/16 and CON 15/4 *John Calvin* 1848: No.842 Rose Murray; No.729 Julia Walsh; No.728 Mary Walsh 2nd from Kildare; No.366 Margaret Purcell; No.439 Catherine Regan; and No.727 Mary Walsh 1st from Cork.

¹⁹⁶ AOT, CON 41/26 Margaret O'Donnell *Midlothian* 1853 No.136.

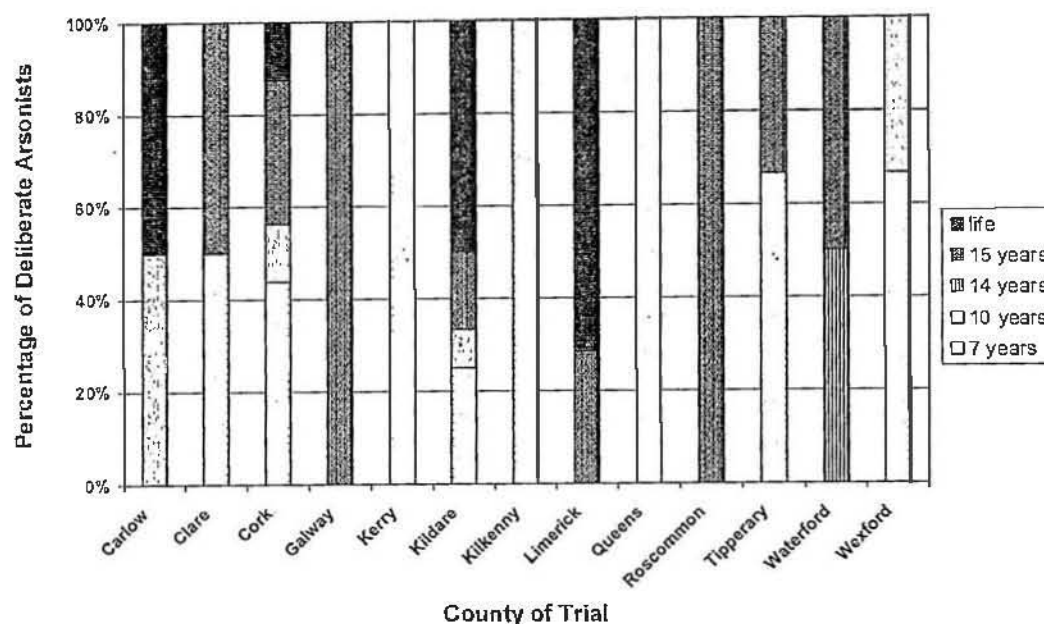


Figure 22: Length of sentences of deliberate arsonists by county of trial, 1845-1852 [n=79].

Of the deliberate arsonists who received life sentences, three were tried together in Limerick;¹⁹⁷ one was tried in Cork;¹⁹⁸ and three were tried in Kildare (one was from King's County and one was from Galway).¹⁹⁹ This distribution of length of sentence by county for deliberate arsonists is shown in Figure 22, and in further detail for Cork, Kildare and Tipperary in Figures 23 to 25.

¹⁹⁷ AOT, CON 41/35 and CON 15/7 Bridget McNamara *Martin Luther* No.1420 and Margaret McNamara *Martin Luther* No.1419; AOT, CON 41/35 Catherine Hayes *Martin Luther* 1852 No.947.

¹⁹⁸ AOT, CON 41/24 and CON 15/5 Susan Chickley *Australasia* 1849 No.1007.

¹⁹⁹ AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518; CON 41/22 Ann Daley *Australasia* 1849 No.677, *Freeman's Journal* 22 March 1849 p.4 col.5; AOT, CON 41/26 Catharine Conway *Blackfriar* 1851 No.1151.

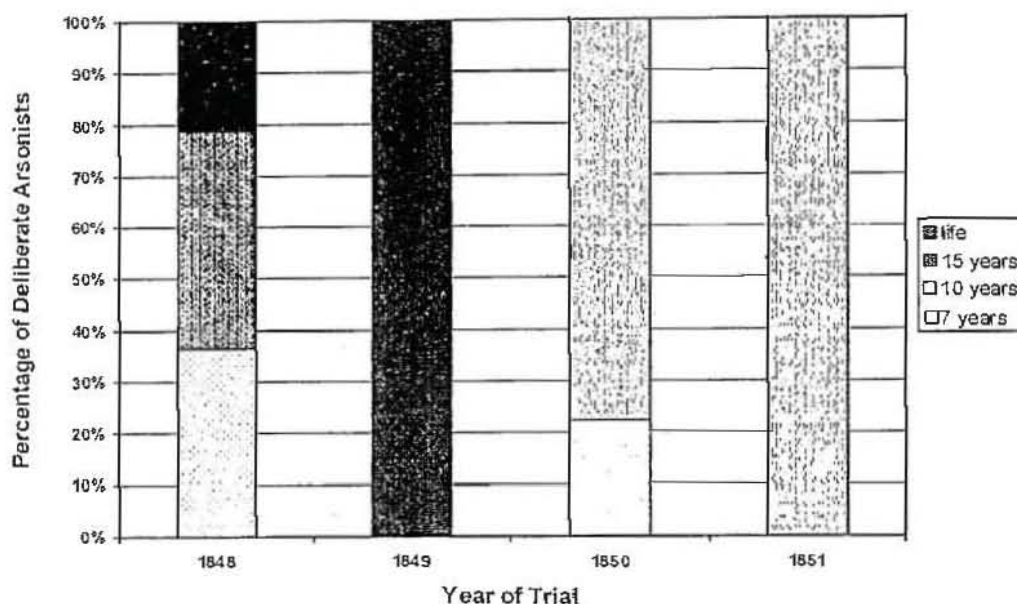


Figure 23: Length of sentence for deliberate arsonists tried in Cork, by trial year, 1845-1853 [n=15].²⁰⁰

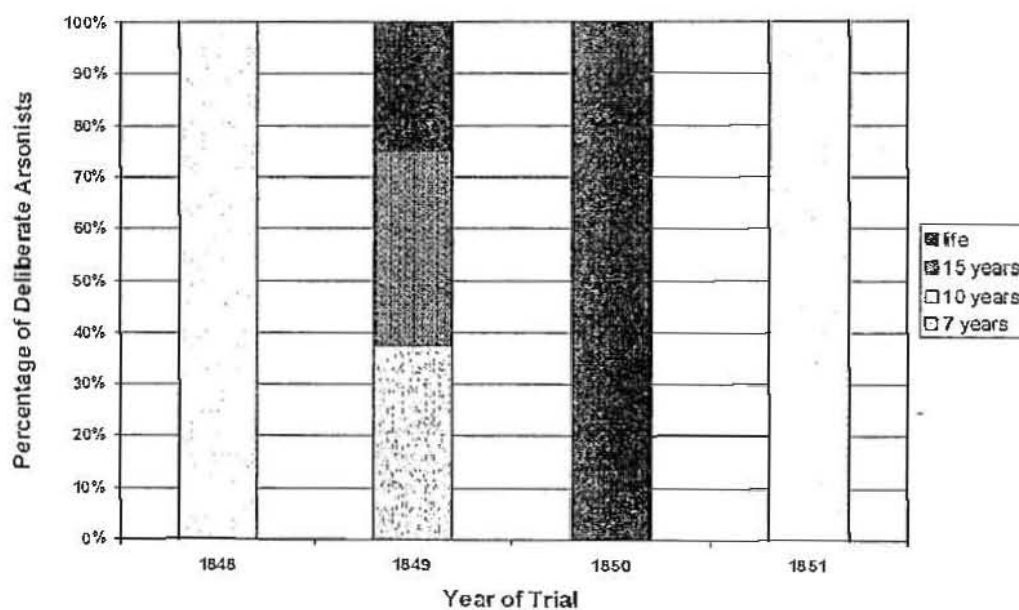


Figure 24: Length of sentence of deliberate arsonists tried in Kildare, by trial year, 1845-1852 [n=10].²⁰¹

²⁰⁰ There were no deliberate arsonists sentenced to 14 years' transportation in Cork, Kildare or Tipperary.

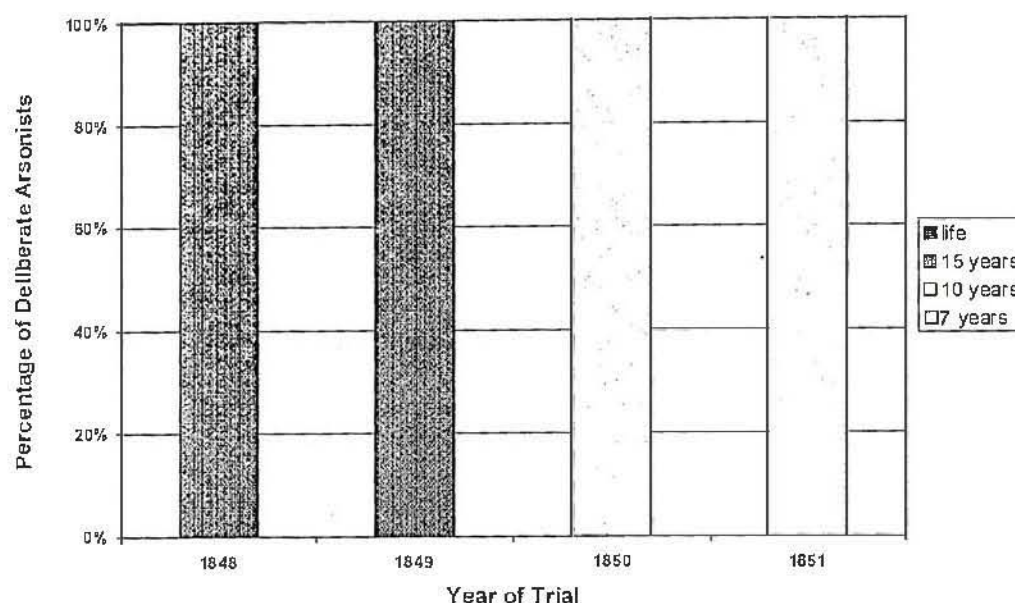


Figure 25: Length of sentences of deliberate arsonists tried in Tipperary, by trial year, 1845-1852 [n=12].

As demonstrated in Figures 23 to 25, sentencing patterns varied from county to county. In Tipperary, for example, a seven year sentence was more likely to be given to a deliberate arsonist in 1850 and 1851 than it was in 1848 and 1849. Overall, sentences were more lenient in the three counties by 1851: in Kildare and Tipperary, only seven-year sentences were given. The reasons for these differences are not be clear but may be related to crime patterns within the county, the level of unrest and the sentencing patterns of individual judges.

Judges and sentencing

It is difficult to determine how much impact individual judges had on sentencing patterns. An insight into one judge's rationale for sentencing is revealed in the

²⁰¹ There were no deliberate arsonists sentenced to 14 years' transportation in Cork.

documents accompanying the petition of the Smith family, convicted at Longford Assizes in 1842. Six were tried for arson, the youngest of whom was a twelve-year-old girl.²⁰² Five were members of the Smith family; the sixth was Anthony Kieran, who worked for the Smiths. Parents Owen and Catherine Smith were sentenced to transportation for life; the others to fifteen years. There were also three ‘untried children’: four-year-old Rose, who was in Longford Gaol with her mother; and six-year-old Catherine and eight-year-old Edwin, who were in the country with an aunt. Following a petition from Owen Smith, the governor of Longford Gaol wrote:

I beg to state to you for the information of the Lords Justices that the prospects of the prisoners’ children are very bad – not having any thing of their own to depend upon and their relations are too poor to assist them.²⁰³

Richard Pennefather, the sentencing judge, explained the sentences he had given, and how he had searched for leniency for the younger members of the group:

The Jury found them all guilty and having no reason to think that they had come to a wrong conclusion, and considering the enormity of the offence, to which human life might in all probability have been the sacrifice, I sentenced the elder prisoners, Owen & Catherine Smith who were the father and mother of the other Prisoners Smith and the Master and Mistress of the Prisoner Kiernan to Transportation for life & the other ... to Transportation for fifteen years. I would here observe to their Excellencies, that although the younger prisoners, from the part they had taken in the transaction, were in my mind proper objects ... legally for conviction, yet that some excuse might perhaps be found in the relationship in which they stood to the Elder prisoners & that on that account *I should have been disposed at least with regard to the younger female convict not to have ordered them to be removed from this country if I had thought they would have remained here with any advantage to themselves.*²⁰⁴ [my emphasis]

On Pennefather’s recommendation, the sentence of the three children was commuted to seven years’ transportation, and the ‘untried children’ were granted permission to accompany their parents. Pennefather’s comment is interesting for its suggestion that

²⁰² See AOT, CON 40/10 Mary Smith *Waverley* 1842 No.681: this gives her age as 13.

²⁰³ NAI, CRF 1842 S20: Petition of Owen Smith.

²⁰⁴ NAI, CRF 1842 S20: Petition of Owen Smith.

he thought it in the best interest of Mary Smith to transport her, given her age and situation. His enquiries into the circumstances of the family led him to conclude that 'it was not to be expected that their staying here would be attended with good results', and that, furthermore, 'the whole family seemed to regard the separation of the parents from their children in different countries a great aggravation of the punishment'.²⁰⁵ He continued:

I therefore passed sentence of Transportation for fifteen years, the shortest period the statute allowed me upon the younger convicts including the prisoner Kiernan as to whom at all events I should have pronounced sentence of Transportation, and I should now be glad to find that the younger unconvicted children if it be possible should not be separated from the mother if that be still their desire & that of their unfortunate parent, I am very sorry to report to their Excellencies that the state of crime in the County of Longford, at the last Assizes was such as to require example.²⁰⁶

In 1847, at Cork Summer Assizes, the magistrate, sentencing in an arson case, declared that 'he was determined to mark his sense of such a crime, which prevailed to such an extent in this great county, by sentencing each person, so convicted, to transportation ... for the term of seven years'.²⁰⁷

As the number of transportation-seeking arsonists increased, there appeared to be pressure on magistrates and judges to deal with the problem. They took varying positions, sometimes refusing to transport those seeking transportation. In Clare in July 1849, Judge Ball spoke strongly against the trend to court transportation:

many of the persons charged ... perpetrated the crime for the purpose of being transported; but he felt it his duty to tell them that they should not be gratified --

²⁰⁵ NAI, CRF 1842 S20: Petition of Owen Smith.

²⁰⁶ NAI, CRF 1842 S20: Petition of Owen Smith.

²⁰⁷ *Cork Examiner* 9 August 1847 p.3 col.2 (Timothy Cummins). Cummins arrived in VDL on the *Hyderabad* (3) in 1849.

that it is monstrous to think that criminals should for a moment be allowed to suggest their sentence, which if desired, would scarcely be a punishment at all.²⁰⁸

Again, in 1851, he sentenced arsonists Mary Lynch and Bridget Horan to two years' imprisonment with hard labour, on the basis that he could not be seen to be encouraging crime.²⁰⁹ At the Clare Assizes in February 1851, Judge Ball made similar comments when he sentenced Margaret M'Donnell and Margaret Hickey to two years' imprisonment with hard labour when they were found guilty of setting fire to a dwelling house:

The only reason given for the commission of this offence was that the prisoners wished to be transported. His Lordship, in passing sentence, observed that he would punish them – not in the way they wished – but in the manner which they did not wish – as he felt bound not to gratify those guilty of crimes by allowing them to choose their own punishment. He would therefore sentence them to be imprisoned for 2 years and kept to hard labour.²¹⁰

Yet there was a great deal of inconsistency. In Wexford, in 1850, for example, Judge Ball handled two cases of arson where the offenders declared that they had committed the crime in order to be transported. In the case of Jane Allen, who deliberately set fire to the Enniscorthy workhouse so she could join her comrades in Wexford jail, Judge Ball reluctantly agreed to transport her. According to the *Wexford Independent*:

His Lordship said, in passing sentence on the prisoner, he was informed that the prisoner had been as many as eight times convicted of different crimes before, and said he felt an unwillingness to sentence those to transportation who had committed crimes for that purpose; but in the present case he must do so; he then sentenced her to Ten Years' transportation.²¹¹

²⁰⁸ *Leinster Express* 4 July 1849 p.4 col.7.

²⁰⁹ *Freeman's Journal* 1 March 1851 p.4 col.5.

²¹⁰ *Clare Journal* 27 February 1851 p.2 col.2; *Freeman's Journal* 28 February 1851 p.4 col.6.

²¹¹ *Wexford Independent* 6 March 1850 p.2 col.6.

Eighteen-year-old Jane Allen admitted to her previous convictions, including stealing workhouse clothes. She also admitted to having been 'on the town' for three years.²¹²

On the same day, the newspaper also reported the trial of Honor Dunn, indicted for unlawfully and maliciously setting fire to a hayrick belonging to Charles Hill. About twenty tons of hay were burned. The arresting constable stated that, when he took Honor Dunn and her companion in charge, she was

talking of her poverty; heard her say it was better to be transported than leading the life she was; she said herself and the other girl set fire to the rick with matches and she told Mr Hill's man that the rick was on fire.²¹³

Honor Dunn was found guilty and the Judge, in passing sentence, stated:

If he complied with her wish to be transported, it would encourage others to commit crimes, and he would therefore sentence her to long imprisonment instead of transportation; and he hoped it would be a warning to others who committed crimes in hopes of being transported. He would therefore sentence her to Eighteen Months with hard labour.²¹⁴

In Galway, in 1852, when Justice Perrin sentenced Mary Kerrigan to death for arson, he also admonished and discharged Peggy O'Donnell for setting fire to a house.²¹⁵ O'Donnell had been found guilty by the jury. The owner's daughter gave evidence that she kept thirty-three sheep in the house, and that, on finding O'Donnell in the vicinity, she beat her. O'Donnell told the Stipendiary Magistrate that 'she made an application to get into the workhouse, and she burned the house to get transported'.²¹⁶

²¹² AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272. Jane Allen's gaol report noted that she had been convicted once before, and that her behaviour was very good. The surgeon's report also noted that her behaviour was very good.

²¹³ *Wexford Independent* 6 March 1850 p.2 col.6 – p.3 col.1.

²¹⁴ *Wexford Independent* 6 March 1850 p.2 col.6 – p.3 col.1.

²¹⁵ *Galway Vindicator and Connaught Advertiser*, 14 July 1852 p.2 col.5.

²¹⁶ *Galway Vindicator and Connaught Advertiser*, 14 July 1852 p.2 col.5.

In comparison, as late as 1852, at least one judge was still threatening transportation, not imprisonment. Justice Moore, in sentencing Margaret Burke and Mary Neale, observed that:

the crime for which those prisoners were convicted was one of a very serious nature, and what was very remarkable, the perpetrators of this crime were mostly women. It was one that was becoming very prevalent in this country, and it was incumbent on him (the learned Judge) to put an end to it as well and as soon as he could. He would therefore give public notice that, for the future, any person that should be convicted before him of this very serious crime, he would most certainly transport them.²¹⁷

Determining the impact of the sentencing patterns of individual judges is complex but it is clear that the length of sentences handed down to deliberate arsonists varied over time and place. Furthermore, in some counties like Limerick, there was a trend to treat those from outside the county differently.

Why arson?

The second fundamental question of this thesis is why the deliberate arsonists chose to commit arson and not some other crime. Why did they choose arson as a crime? Why not steal a petticoat? The most obvious reason is that arson was a serious enough crime to warrant a sentence of transportation. The outcome of stealing and other minor offences was less certain. In July 1851, Margaret Kennedy, who stole a shawl so that she could be transported to join her mother – ‘sent before her’ – was merely imprisoned for three months’ with hard labour and not transported.²¹⁸ In Kildare in 1849, Anne Magrath expressed disappointment that, having stolen watches, she was not going to be transported and she threatened to commit arson:

²¹⁷ *Limerick Reporter & Tipperary Vindicator* 12 March 1852 p.4 col.3.

²¹⁸ *Waterford News* 4 July 1851 p.1 col.5.

Anne Magrath for having in her possession two watches, which were stolen out of the window of Mr John McDonald of Athy. This woman said if she was not sent out of the country, that there was not a house in the country which she would not burn.

Mr Drill [the lawyer for the defendant] – the woman asked me to get her transported today.

On being sentenced to three months imprisonment with hard labour, she seemed much disappointed, and expressed herself to the effect that she would have better luck next time.²¹⁹

In Mayo, in 1851, two offenders pleaded guilty to deliberately committing larceny in order to be transported; they claimed that if they were not successful, then they ‘would again commit some heavier offence to entitle them to transportation’.²²⁰ Arson was such an offence.

As noted earlier, in the later periods, when arson was rife, the courts attempted to quell the crime by refusing to transport those who stated that they deliberately committed the crime for that purpose. Perhaps this might explain why at least seven of the women transported for arson had previous convictions for arson, attempting or threatening arson.²²¹ Galway deliberate arsonist, Mary Ann Williams, served three

²¹⁹ *Leinster Express* 27 October 1849 p.4 col.5 (County Kildare Quarter Sessions). A woman named Anne Magrath was tried in King’s County for arson on 15 July 1850 and was transported for 7 years. She admitted to 3 previous offences: 6 months for glass, 3 months for threatening, and 3 weeks for breaking glass. But there is no evidence to connect the two women. See AOT, CON 41/30 Anne Magrath *Blackfriar* 1851 No.1258. Anne Magrath, a 23-year-old housemaid from King’s County, was admitted to the New Norfolk Asylum in 1851, the year that she arrived, and died there in December 1866. See also AOT, RGD 35/36 1866 New Norfolk No.300.

²²⁰ *Freeman’s Journal* 11 March 1851 p.1 col.4.

²²¹ There is no evidence to suggest that they were deliberate arsonists. Wicklow arsonist, Mary Hemes, had served 18 months for arson: AOT, CON 41/16 Mary Hemes *John Calvin* 1848 No.702; Queen’s County arsonist, Martha Dunlop, had previously been sentenced to 6 months for arson: AOT, CON 41/33 Martha Dunlop *John William Dare* 1852; Limerick arsonist, Catherine Gearon, had previously received 3 months ‘for a small stack of hay’: AOT, CON 41/28 Catherine Gearon *Duke of Cornwall* 1850 No.543; Galway arsonist, Mary King, had previously served 2 months for houseburning: AOT, CON 41/28 Mary King *Duke of Cornwall* 1850 No.406.

months for burning straw.²²² Seventeen-year-old Wexford nursemaid, Margaret Foley, transported in 1851, had served three months for threatening arson.²²³ Another three women, including deliberate arsonist, Margaret Lehane, were discharged for attempting or threatening arson. Margaret Lehane, transported in 1851, was twice discharged for threatening to burn before being transported for burning a hayrick.²²⁴

Threatening arson was initially not enough to warrant transportation, although this later changed. In August 1849, in the case of Judith Huskisson, the *Leinster Express* reported that:

The learned Judge observed that ... [b]eing only an attempt to set fire to the premises under the law as it stood, the punishment would only have been fine and imprisonment; but the 7th sec. of a recent statute made such an attempt a felony, and the case was so serious that it would be the duty of the court to award the severest sentence, namely, transportation for fifteen years.²²⁵

This may explain why many of the deliberate arsonists committed arson under cover of darkness, a fact commented upon by the judge presiding at Naas Assizes in March 1849:

Five young females, varying from 15 to 18 years, who were guilty of the crime of arson, were ranged in front of the dock to receive sentence. They were all of profligate character, and without a settled place of abode. There was a companionship and identity in their career in crime, which was, setting houses and corn ricks on fire during the night time ... I am actually horrified to behold five very young women like you, admitting with unblushing levity to having set

²²² AOT, CON 41/33 Mary Ann Williams *John William Dare* 1852 No.950.

²²³ AOT, CON 41/30 Margaret Foley *Blackfriar* 1851 No.489. Margaret Purcell, from Cork, served 10 weeks for threatening to burn the house which she later burned: AOT, CON 41/16 and 15/4 Margaret Purcell *John Calvin* 1848 No.366.

²²⁴ AOT, CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484 Williams, *Ordered to the Island*, refers to her as 'Lehanes'. Kildare arsonist Jane Armstrong was discharged for attempting arson: AOT, CON 41/28 Jane Armstrong *Duke of Cornwall* 1850 No.259.

²²⁵ *Leinster Express* 4 August 1849 p.3 col.5. She appears to have been transported as Winifred Huskisson: see AOT, CON 41/26 Winifred Huskisson *Earl Grey* 1850 No.834. The statute was most likely the *Transportation (Ireland) Act 1849*, 12 & 13 Vict c27.

fire to corn-stacks, and houses in this county, and during the night, when the owners were off their guard, and unconscious of the diabolical plottings and fiendish wantonness of which they were to be victims. Of the dangers to which human life was exposed, you could form no calculations; of the ruin to property you were careless.²²⁶

The arsonist had to make sure that the fire took hold, as attempted arson was inadequate to secure transportation at least up until 1849. After the change in the law, it may have been easier to secure transportation.

For those who wished to be transported, arson was an expedient crime. Rarely was a death sentence given to women committing arson; in the few instances where this occurred, the sentence was commuted to transportation or imprisonment, and there is no evidence that executions took place. Not only was it serious enough to warrant transportation, it was obvious, instant, expeditious, and it was easy to be caught if that was the purpose. Arson required little planning, no tools, incurred no expense and could be committed with a partner or in a group. It was a particularly effective means to an end for Irish women seeking to change their circumstances.

Conclusion

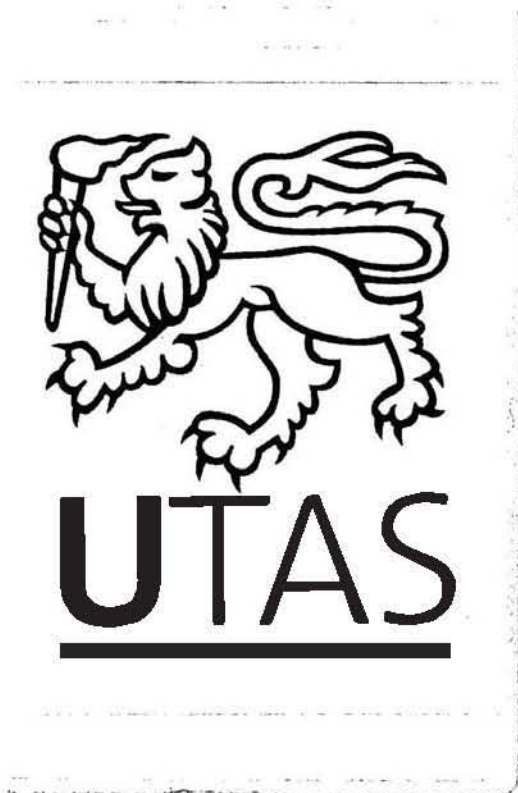
The phenomenon of courting transportation is an intriguing one. Not confined to women or Ireland, it appears as a reaction to distress and poverty, a strategy for taking some control in a life undermined by outside forces. However, it appears to have been most prevalent in the aftermath of the Famine in Ireland. The Famine, and

²²⁶ *Leinster Express* 24 March 1849 p.3 col.2 (Naas Assizes).

the resultant increased poverty and social dislocation, formed the backdrop to this phenomenon, but the pattern of 'courting transportation' was well-established in Ireland before the Famine. Both men and women sought transportation, and utilised a range of crimes to do so. However, by the late 1840s, the majority of those who stated that they deliberately offended were likely to have been women who committed arson. It was arson, too, that was increasingly the concern of the magistrates and judges. There was a significant increase in the number of women being transported for committing arson in Ireland from the late 1840s, as well as a commensurate growth in the number of women who indicated that they deliberately committed arson in order to be transported.

The question of those who courted transportation is complex. Gauging their awareness of the significance of transportation is even more difficult: did they know that a life sentence could mean less than that, or that transportation, in effect, meant lifelong exile? Were they familiar with the intricacies of the convict system, the rewards and the conditions? Were conditions so bad that it did not matter? For the women who committed arson, it may simply be that the possible positive benefits outweighed the negative aspects. Arson was a particularly effective crime if being caught was the aim: it was highly visible, needed a minimum of planning and need not harm any person. Yet it was serious enough to justify transportation. Above all, it is an indication that the women were actively seeking to change their circumstances. In this light, it is worth noting Ó Gráda's perception of crime as resistance, in the context of the Famine, challenging radical nationalist Michael

Davitt's accusation of 'wholesale cowardice' and the resignation of the Irish people to their fate.²²⁷



²²⁷ Ó Gráda, *Ireland*, p.202. See also Michael Davitt, *The Fall of Feudalism in Ireland*, London, 1904, p.48.

Chapter Three:

‘mere gratuitous emigration’?¹

At least seventy-nine women confessed to deliberately committing arson in order to be transported. In *Why Ireland Starved*, Joel Mokyr considered ‘One of the most intriguing questions in the history of migration is this: what made some men and women leave their rural cottages and go to cities, sometimes foreign, to work for other men in factories, shipyards, offices or railroads, while others did not?’² For the deliberate arsonists, the question is why they chose transportation rather than emigration.

This chapter will consider whether transportation was a means to an end for the deliberate arsonists: were their circumstances so desperate that they would opt for any means of escape? The chapter will also discuss whether emigration was an option for many poor women in post-Famine Ireland. In examining similarities between the deliberate arsonists and those who were emigrants, this chapter also explores whether the deliberate arsonists, like many Irish migrants, left home in an extended chain of migration: one family member emigrating and then sending back for siblings or cousins, and finally parents.

¹ AOT, GO 1/75 p.172 Merivale to Waddington 11 June 1849.

² Joel Mokyr, *Why Ireland Starved: A quantitative and analytical history of the Irish economy, 1800–1850*, London, 1983, p.258.

Escape from Famine Ireland and its aftermath was desperately sought. In some instances, there is evidence that it did not matter whether this was by transportation or emigration. Arsonist Mary Jane Robinson was happy to emigrate on a convict ship: in 1852, she petitioned the Lord-Lieutenant General and General Governor of Ireland, stating that she was a prisoner in Kilmainham Gaol serving a sentence of eighteen months' imprisonment. She requested that her sentence be commuted and that she should be

allowed the privilege to emigrate with the next batch of female convicts that will be going out whereby she may be enabled to procure an honest and respectable livelihood.³

For Mary Jane Robinson, it seems that escaping Ireland was crucial: it did not matter how she achieved this aim.

For Martin Keogh, convict father of deliberate arsonist Margaret Keogh, transportation and emigration both appear to have been a means to an end. When Martin petitioned for a commutation of his seven-year sentence of transportation on the grounds that he was innocent of the charge of sheepstealing, he added that, should his appeal be successful, he would emigrate with his wife and family to one of the British colonies.⁴ His family followed him to Van Diemen's Land, using a combination of transportation and emigration. These were both instruments to effect

³ NAI, FS 1852 6: Mary Jane Robinson. The result of her request is not known.

⁴ NAI, CRF 1842 K 37. See also CRF 1843 K 15. The family name is spelt according to the document used.

change. The purpose of this chapter is to discuss whether the deliberate arsonists used transportation as a means of emigration.⁵

There is little evidence of the deliberate arsonists' knowledge of emigration from Ireland, or their perception of it in relation to transportation. As noted in Chapter Two, many of the women were already migrants, having moved county at least once.⁶ By the late 1840s, emigration was a significant aspect of Irish life, particularly for the impoverished.⁷ Between 1801 and 1921, at least eight million people migrated from Ireland.⁸ Emigration was greatest between 1846 and 1855, with about 2.5 million leaving in response to the Famine and the social dislocation that followed.⁹ Between 1849 and 1852, more than 200,000 left each year; in 1851, migration from Ireland peaked, when nearly a quarter of a million left for North America alone.¹⁰

⁵ See S. Nicholas and Peter R. Shergold, 'Convicts as Migrants' in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.43-61, for a discussion of transportation in the context of migration: 'The transported convicts were Australia's first migrants, and transportation can be viewed as Australia's first immigration policy' (p.59).

⁶ Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Melbourne, 1996, p.135. Oxley concluded that between birth and being tried and transported, 45% of Irish convict women moved county at least once, with 1/3 of migrants crossing to England. See also Nicholas and Shergold, 'Convicts as Migrants', pp.43-61: over 35% of convicts had moved from their county of birth before being sent to NSW. See also Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 2. The Irish in the New Communities*, London, 1992, p.14, for the development of a 'culture of migration' within Ireland.

⁷ The literature on Irish emigration is vast; much of it focuses on emigration to North America: Oliver MacDonagh, 'Irish Emigration to the United States of America and the British Colonies during the Famine' in R. Dudley Edwards and T. Desmond Williams, *The Great Famine. Studies in Irish History 1845-52*, Dublin, 1956, pp.319-388; Robert E. Kennedy Junior, *The Irish. Emigration, Fertility and Marriage*, Berkeley, 1973; David Fitzpatrick, *Irish Emigration 1801-1921*, Dublin, 1984. For Irish emigration to Australia, see Paula Hamilton, ' "No Irish Need Apply": Prejudice as A Factor in the Development of Immigration Policy in New South Wales and Victoria, 1840-1870', unpublished Ph.D. Thesis, University of New South Wales, 1979; David Fitzpatrick, *Oceans of Consolation. Personal Accounts of Irish Migration to Australia*, Ithaca and London, 1994.

⁸ Fitzpatrick, *Irish Emigration 1801-1921*, p.1.

⁹ Fitzpatrick, *Irish Emigration 1801-1921*, p.3.

¹⁰ MacDonagh, 'Irish Emigration', p.324.

Migration to Australia was not as extensive as that to North America, but it was still significant. Between 1840 and 1914, about a third of a million Irish people migrated to the Australian colonies.¹¹ Few arrived in the decade 1841–1850,¹² but this changed with the discovery of gold in 1851 and the consequent increased demand for labour in Australia.¹³ Reports of colonial success were frequently published in Irish newspapers.¹⁴ In the 1850s, nearly 100,000 Irish migrants arrived, more than double the number that arrived between 1836 and 1850.¹⁵ Most migrants to Australia came from Clare and Tipperary, as did many of the deliberate arsonists, but there were few counties without any Australian connection.¹⁶

Irish migration to Australia was characterised by a high level of government or private assistance. A number of different schemes operated.¹⁷ Many Irish migrants to Australia came under some form of assisted immigration, in which all or part of the

¹¹ Fitzpatrick, *Oceans of Consolation*, p.6.

¹² Patrick O'Farrell, *The Irish in Australia*, Sydney, 1986, p.63: only 2% (23,000) of those who left Ireland came to Australia. See also MacDonagh, 'Irish Emigration' p.369: an estimated 14,000 emigrants from Ireland to Australia during the Famine years.

¹³ Scott Bennett, 'The Impact of the Victorian Goldrush on the Economy of Van Diemen's Land', *A.N.U. Historical Journal*, October 1964, Vol.1, No.1, pp.69-84; Geoffrey Blainey, *The Rush that Never Ended*, Melbourne, 1963.

¹⁴ *Galway Mercury* 14 July 1849 p.1 col.4; *Freeman's Journal* 5 September 1851 p.4 col.4.

¹⁵ Fitzpatrick, *Oceans of Consolation* p.7; O'Farrell, *The Irish in Australia*, p.63.

¹⁶ Fitzpatrick, *Irish Immigration*, p.54. This assessment is based on per capita of county population.

¹⁷ Between 1832 and 1890, there were a number of different assisted immigration schemes. These schemes included a loan system for skilled tradesmen and their families which operated between 1832 and 1836; a bounty system between 1836 and 1845, a government selection system, 1837-1840 and 1846-1886, and a remittance or nomination system 1848-1886. As well, there were other schemes such as the short-lived Land and Deposit system of the early 1850s, and periods when no schemes operated (such as 1843 in NSW when the local economy was depressed). Some schemes including the female orphan scheme (1848-1850) received supplementary imperial funding. For details, see Richard Reid, 'From Ballyduff to Boorowa – Irish Assisted Immigration to New South Wales, 1830-1896' in Richard Reid and Keith Johnson (eds.), *The Irish Australians*, Sydney and Belfast, 1984, p.27.

fare was paid for by the colonial authorities, usually from colonial land funds.¹⁸ As well as government assistance, there was also private assistance for migrants, most often by landlords.¹⁹ Between 1846 and 1850, approximately 5 per cent of migrants had their fares paid by landlords, who 'realised that this provided the most humane and efficient way of ridding their estates of paupers and in the process reducing their poor rates'.²⁰ There were also combinations of government and private assistance. Daly

¹⁸ Fitzpatrick, *Irish Emigration*, p.18: By 1872, an estimated 140,000 Irish emigrants had been assisted to come to Australia. For information about assisted immigration schemes, generally, see R.B. Madgwick, *Immigration into Eastern Australia 1788-1851*, Sydney, first published 1937, 1969 impression; Jan Gothard, *Blue China. Single Female Migration to Colonial Australia*, Melbourne, 2001; Elizabeth Anne Rushen, 'Free, single and female: the women of the first scheme for female emigration to Australia, 1833-1837', unpublished Ph.D. Thesis, Monash University, 1999; Elizabeth Rushen, *Single & free. Female Migration to Australia, 1833-1837*, Melbourne, 2003; Eric Richards (ed.), *Poor Australian Immigrants in the Nineteenth Century. Visible Immigrants: Two*, Canberra, 1991. See also R.J. Shultz, 'The Assisted Immigrants 1837-1850', unpublished Ph.D. Thesis, ANU, 1972, pp.198-122. In his thesis, Shultz amended earlier statistical summaries published in 'Immigration into Eastern Australia, 1788-1851', *Historical Studies*, Vol.14, No.25, April 1970, pp.276-282.

¹⁹ This was concentrated in Leinster and Munster before the Famine, Leinster and Connaught during the Famine, and Connaught and Munster from then on. Fitzpatrick noted at least 180 landlords and philanthropists offered some form of assistance to more than 80,000 emigrants, including Vere Foster's scheme for removing 23,000 girls from Ireland. The bulk of emigration was conducted by 10 major landlords, who sent out 30,000 emigrants in batches ranging between 1,000-6,000 per landlord. For a discussion of emigration promulgated by landlords, see Hamilton, 'No Irish Need Apply', pp.56-58; Fitzpatrick, *Irish Emigration*, pp.18-20; and MacDonagh, 'Irish emigration', pp.320-321, 331. See also W.E. Vaughan, *Landlord and Tenants in Ireland, 1848-1902*, Dublin, 1984. For landlord assistance from Ulster, see Trevor Parkhill, 'Convicts, orphans, settlers: patterns of emigration from Ulster to Australia 1790-1860' in John O'Brien and Pauric Travers, *The Irish Emigrant Experience in Australia*, Dublin, 1991, pp.23-24. For the significance of patronage in Irish emigration, see Eric Richards, 'British Poverty and Australian Immigration in the Nineteenth Century' in Richards (ed.) *Poor Australian Immigrants*, p.16. William Smith O'Brien, as a Limerick landlord, advocated emigration: Richard Davis, 'William Smith O'Brien: Irish Rebel and British Colonial Reformer', *Bulletin for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.4.

²⁰ Mary E. Daly, *The Famine in Ireland*, Dublin, 1986, p.106. The best known landlord scheme was that of Lord Monteagle, 'the influential politician and advocate of colonization', who sent numerous tenants and their dependants from Limerick to Australia using a combination of state assistance and generous personal loans. For the Monteagle emigrants, see S.C. O'Mahony and Valerie Thompson, *Poverty to Promise: The Monteagle Emigrants 1838-1858*, Darlinghurst, NSW, 1994; Valerie Thompson 'A Letter to his Lordship: The Monteagle Emigrants', *Push*, Vol.18, October 1984, pp.42-48; O'Farrell, *The Irish in Australia*, p.69. For philanthropy and famine relief, see Christine Kinealy, 'Potatoes, providence and philanthropy: the role of private charity during the Irish Famine' in O'Sullivan (ed.), *The Meaning of Famine*, pp.141-171; Christine Kinealy, *The Great Irish Famine. Impact, Ideology and Rebellion*, Houndmills, Hampshire and New York, 2002, pp.61-89; Ruth-Ann M. Harris, ' "Where the poor man is not crushed down to exalt the aristocrat": Vere Foster's programmes

suggested that landlord initiative encouraged some Boards of Guardians to follow suit; they were permitted to borrow on the rates to finance emigration passages, and thousands of workhouse residents migrated to British colonies from 1849.²¹

Migration to Australia focused very much on young, single women in an attempt to redress the longstanding population imbalance: the level of assistance was set higher for young women.²² Women were a valued commodity.²³ Hamilton suggested that female immigration was not just to redress the population imbalance, but was also to provide the colonies with domestic servants.²⁴ Colonists wanted 'fit, healthy and unencumbered female workers and potential wives'.²⁵ As the *Freeman's Journal* noted, desirable female emigrants were 'able-bodied young women, of respectable character, but principally those accustomed to the dairy and domestic duties'.²⁶

In summary, not only was migration from Ireland to the Australian colonies significant numerically at this time, but it was also largely directed at young, single

of assisted emigration in the aftermath of the Irish Famine' in O'Sullivan (ed.), *The Meaning of Famine*, pp.172-194.

²¹ Daly, *The Famine*, p.107. See also Fitzpatrick, *Irish Emigration*, p.18.

²² Chris McConville, *Croppies, Celts and Catholics. The Irish in Australia*, Caulfield East, Victoria, 1987, pp.34-35; Rushen, 'Free, single and female', p.40; Hamilton, 'No Irish Need Apply', p.80. For a discussion of theories of emigration, and colonisation, see Hamilton, 'No Irish Need Apply', pp.109-121. For a discussion of the shortage of women, see Russel Ward, *The Australian Legend*, Melbourne, 1958, pp.88-104. See also Eric Richards, 'The importance of being Irish in Colonial South Australia' in O'Brien and Travers *The Irish Emigrant Experience*, p.75.

²³ Sharon Morgan, ' "This Land of Plenty": A Study of Irish Immigrant Women in Colonial Victoria, 1840-1860', unpublished M.A. Thesis, University of Melbourne, 1986, p.24 & esp. Table 1.1 p.22 (a).

²⁴ Hamilton, 'No Irish Need Apply', pp.330-333. Hamilton argued that it was only when it was deemed morally imperative to redress the sexual imbalance in the population that the emigration of single women without families or relatives was considered under assisted emigration schemes.

²⁵ Rushen, 'Free, single and female', p.68.

²⁶ *Freeman's Journal* 1 November 1852 p.3 col. 6.

women.²⁷ Given this, it is important to ask why the deliberate arsonists chose to be transported rather than emigrate.

Despite the existence of assistance schemes, migration to Australia was not an easy option, especially for the poor. The cost of a passage to Australia in the nineteenth century was more expensive than one to America. It cost between £2 and £6 for a passage to North America and between £10 and £15 to Australia.²⁸ Furthermore, the voyage could not easily be made in stages, as could the journey to America.²⁹ Fitzpatrick suggested that the 'costly, unfamiliar, and always unusual option' of Australia was probably a last resort for the Irish emigrant.³⁰ Few Irish emigrants could afford the full fare at the best of times and were reliant upon government assistance. Migrants also needed to find money for transport to the port of departure as well as for board and lodging at either end of the journey.³¹

Richard Reid stated that some form of government subsidy was probably a prerequisite for large-scale Irish migration to Australia, because of the high cost of a

²⁷ Madgwick, *Immigration*, p.195.

²⁸ Fitzpatrick, *Irish Emigration*, p.22; Madgwick, *Immigration*, p.60: in the 1820s, it cost £40 for a steerage passage to the Australian colonies and about £5 to North America. See also Geoffrey Sherington, *Australia's Immigrants. 1788-1978*, Sydney 1980, p.36.

²⁹ Daly, *The Famine*, p.107: emigrants often walked across Ireland to Dublin or other eastern ports to embark for Liverpool, which offered the cheapest fares, rather than set sail from an Irish port. It was cheaper to travel to Canada than to the United States because Canadian vessels were subject to less regulation, so Canada became the most common destination. Once there, those who were in a fit condition walked across the border into the United States.

³⁰ Fitzpatrick, *Oceans of Consolation*, p.8. Fitzpatrick estimated that a pound was required to cover costs at each end of the journey

³¹ Jan Gothard, ' "Pity the Poor Immigrant": Assisted Single Female Migration to Colonial Australia' in Richards (ed.), *Poor Australian Immigrants*, pp.110-113.

passage.³² Even with financial assistance, the costs were still expensive and under some schemes, migrants were expected to contribute part of the cost of the voyage. In 1849, the demand for assisted passages was so high, that a sliding scale of migrant contributions was devised according to age and occupation.³³ Migrants under the £20 advance scheme were required to enter into a contract to repay the cost of the voyage from their earnings in the colony. Women who migrated under the auspices of the London Emigration Committee were required to contribute £6 towards their passage. For many, this was difficult and they were forced to take out £5 promissory notes payable to the agent and later to the government, and redeemable on the women's wages in the colonies. This was changed when the government introduced free passages for approved women; girls as young as twelve were able to migrate for free as long as they were accompanied by their parents.³⁴ In Fitzpatrick's view, the costs of the voyage meant that the majority of potential migrants could hope at best to cover only their own passage rather than that of their households or family members.³⁵ Consequently, the 'structure of emigrant financing strongly favoured individual movement'.³⁶

³² Reid, 'Ballyduff', p.27. See also Charlotte Macdonald, 'Single Women as Immigrant Settlers in New Zealand, 1853-1871', unpublished Ph.D. Thesis, University of Auckland, 1986 for similar comments about single female emigrants to New Zealand.

³³ Madgwick, *Immigration*, p.195; Reid, 'Ballyduff'. Agricultural labourers paid the lowest contribution of £2, farm servants, female domestics and shepherds – occupational groups most in demand in NSW. Charges graduated according to the ages and occupations of the applicants: agricultural labourers, shepherds, herdsmen and female domestic and farm servants between 14-40 paid £2 each, between 40-50 paid £6, 50-60 £11, and over 60, £15. Mechanics and females other than domestic servants paid amounts ranging from £5 to £15, according to their ages.

³⁴ Rushen, 'Free, single and female', p.43.

³⁵ Fitzpatrick, *Irish Emigration*, p.22.

³⁶ Fitzpatrick, *Irish Emigration*, p.22.

Assisted immigration from Ireland was limited and unpredictable. Póirtéir estimated that, of the two million people who emigrated in the decade after Famine struck, only a few thousand received official subsidies.³⁷ According to Daly, the majority of Irish emigrants needed to find their own passage money, or depended upon remittances from earlier emigrants. Consequently, they sought the cheapest possible passage.³⁸ Fitzpatrick pointed out that government assistance was subject to the whim of government and was often abruptly amended or discontinued.³⁹ For potential users of the schemes, there was no certainty and probably a great deal of confusion about current selection criteria. This may have served as a disincentive to use such schemes. In contrast, transportation was highly organised and predictable.

It is also important to consider whether choice of destination was significant for the deliberate arsonists.⁴⁰ As already noted, emigration to America was a cheaper option than to Australia. Furthermore, some of the arsonists already had family members in America. According to information on the indents, at least nine of the deliberate arsonists had family members who had migrated to America.⁴¹ Eliza Morrison, a

³⁷ Cathal Póirtéir, *Famine Echoes*, Dublin, 1995, p.244: about 1 in 20 received assistance from landlords. More than 3/4 received passage money from those who had already emigrated to America; remittances in 1850 totalled more than £1 million pounds.

³⁸ Daly, *The Famine*, p.107.

³⁹ Fitzpatrick, *Oceans of Consolation*, p.9.

⁴⁰ See Morgan, 'This Land of Plenty', pp.22-24 for a discussion of the factors influencing choice of destination.

⁴¹ AOT, CON 15/5 Mary Paid Lord Auckland (3) 1849 No.391; AOT, CON 15/5 Mary Donovan 3rd Maria (2) 1849 No.647; AOT, CON 41/22 and CON 15/5 Julia and Mary McCarthy Maria (2) 1849 No.983 & No.982; AOT, CON 41/30 and CON 15/7 Bridget Dunne Blackfriar 1851 No.761: Bridget Dunne's brother, Pat, was in America; AOT, CON 41/35 and CON 15/7 Eleanor Quirk Martin Luther No.45: Eleanor Quirk's brother, Thomas, was in America; AOT, CON 41/36 and CON 15/8 Margaret Bourke Midlothian 1853 No.1213: Margaret Bourke's sister, Ellen, was in America; AOT, CON 41/36 and CON 15/8 Margaret Keogh Midlothian 1853 No.493: Margaret Keogh had a sister, Jane, in

twenty-year-old housemaid from County Donegal, was married when she arrived in Van Diemen's Land; her husband, William, was in America.⁴² Catherine Connors had family in America and England.⁴³ Sisters Julia and Mary McCarthy's only other relative was their sister, Ellen, who was in America.⁴⁴ Given the nature of Irish emigration, particularly chain migration, it is worth considering why this option of migration to America was not acted upon. Perhaps the choice of destination was a significant factor.

If the place of destination was significant – if the potential Irish migrant wanted to go to Van Diemen's Land – assistance was even more restricted at this time. Gothard suggested that assistance to the colony was more limited than elsewhere both in its duration and in the numbers assisted.⁴⁵

Even for those who received government assistance, the cost of migrating to Australia was high.⁴⁶ The fare for the passage included basic provisions but clothing and a shipboard kit were also required. O'Farrell elaborated: 'For America it might be possible for emigrants to leave in the clothes they wore; the length of journey to

America, but the remaining members of her family were either transported or emigrated to Van Diemen's Land.

⁴² AOT, CON 15/6 Eliza Morrison *Earl Grey* 1850 No.1093.

⁴³ AOT, CON 15/5 Catherine Connors *Lord Auckland* (3) 1849 No.934.

⁴⁴ AOT, CON 15/5 Julia McCarthy *Maria* (2) 1849 No.983.

⁴⁵ Janice Gothard, 'Government-assisted Migration of Single Women from Britain to Australia, 1860-1900', unpublished Ph.D. Thesis, Murdoch University, 1991, pp.23-24. For immigration to Tasmania, specifically, see Jan Gothard, ' "Radically unsound and mischievous": female migration to Tasmania, 1856-1863', *Australian Historical Studies*, Vol.23, No.93, October 1989, pp.386-404; Madgwick, *Immigration*, pp.88-111; and A. James Hammerton, ' "Without natural protectors": Female Immigration to Australia, 1832-1836', *Historical Studies*, Vol.16, October 1975, pp.539-566.

⁴⁶ Morgan, 'This Land of Plenty', pp.22-24. See also Reid, 'Ballyduff', p.29; Parkhill, 'Convicts, orphans, settlers', pp.16-17.

Australia, and the climatic variations, entailed the purchase of several outfits, as well as towels, utensils and incidentals'.⁴⁷ In 'Pity the Poor Immigrant', Gothard indicated that, in making the decision to migrate, the prospective emigrant had to consider the cost of the passage and shipboard kit as well as wages lost during transit.⁴⁸

Government financial assistance to emigrants was limited, and demand for assistance normally exceeded supply. Furthermore, the schemes were costly to administer and numbers were limited.⁴⁹ Official funds were primarily used to assist the emigration of special categories such as military pensioners, Crown witnesses and convict families.⁵⁰ One specialised form of government migration was the convict reunification scheme. Some of the deliberate arsonists had family members or spouses who had already been transported as did convicts generally.⁵¹ For those who wanted to join family members, or bring out family members, the convict reunification scheme, in theory, was a sensible option.

Although the policy of reuniting convicts and their families was longstanding, practically, however, reunion was difficult, even if the convict was able to provide the

⁴⁷ O'Farrell, *The Irish in Australia* p.65.

⁴⁸ Gothard, 'Pity the Poor Immigrant', pp.110-113.

⁴⁹ S.H. Cousens, 'The Regional Pattern of Emigration during the Great Irish Famine, 1846-51,' *Transactions and Papers of the Institute of British Geographers*, No.28, 1960, p.56. Cousens estimates that approximately 50,000 Irish emigrants were assisted under British Government schemes. See also Hamilton, 'No Irish Need Apply', p.56.

⁵⁰ Fitzpatrick, *Irish Emigration*, p.18. See Cousens, 'The Regional Pattern of Emigration', pp.120-121.

⁵¹ See Appendix One.

cost of the passage.⁵² In Van Diemen's Land, there is little information about the early administration of the scheme, although it had the support of both Lieutenant-Governors Sorell and Arthur because of perceived reformatory benefits.⁵³ In 1848, the British Government allocated £30,000 to be used for immigration to the penal colonies. Wives and families of convicts were particularly targeted.⁵⁴ Small numbers arrived under this phase of the family reunion policy, which continued to operate at least until the early 1870s.⁵⁵ The scheme for convict family applications

⁵² The policy and practice of convict family reunion has been addressed by Rena Lohan, 'Sources in the National Archives for research into the transportation of Irish convicts to Australia (1791-1853)'. See also Rena Lohan, 'The Management of female convicts sentenced to transportation and penal servitude 1790-1898', unpublished M.Litt. Thesis, University College Dublin, 1989. See also Portia Robinson, *The Hatch and Brood of Time: A Study of the First Generation of Native Born White Australians, 1788-1828*, Melbourne, 1985; Richard Reid, ' "That Famine is Pressing Each Day More Heavily Upon Them": The Emigration of Irish Convict Families to NSW 1848-1852' in Richards (ed.), *Poor Australian Immigrants*, pp.69-95; O'Farrell, *The Irish in Australia*, p.62. For NSW specifically, see Perry McIntyre, ' "Exchanged Worlds": Pre-Famine Irish in New South Wales: A case study of the emigrants on the Lady McNaughten 1837', unpublished M.Litt. Thesis, University of New England, 1995. For convict family reunion from Ulster, see Parkhill, 'Convicts, orphans, settlers', pp.10-12. Precise numbers of applicants are difficult to determine. Williams estimated that at least 47 Irish convicts (including 4 women) asked for their families to be brought to Van Diemen's Land; he does not say how many of these were actually approved: see John Williams, *Ordered to the Island. Irish Convicts and Van Diemen's Land*, Sydney, 1994, p.150. See also Sandra Champion, 'Prostitutes, hardened offenders or gratuitous immigrants? Irishwomen of the *Greenlaw* and the *Midlothian*', *Tasmanian Historical Studies*, Vol.4.2, 1994 p.22 and Sandra Champion, ' "Not Hardened Offenders": the women of the *Greenlaw* and the *Midlothian*', unpublished BA (Hons) Thesis, University of Tasmania, 1994. Champion found that 11 women applied for passages for their families. Nine of these were on the *Midlothian*. See also Susan E. Johnson, 'The Irish convict women of the *Phoebe*', *THRAPP*, Vol.45, No.1, March 1998, p.41. Precise numbers of applications and approvals is complicated by the existence of applications in a number of different record sources. However, a recently compiled index to convict applications indicates that Williams' estimate is conservative: there are, for example, applications from approximately 67 women who arrived on Irish convict transports: see Coralie Mesecke, *Convict Applications to bring out families to Van Diemen's Land (also NSW, Vic & WA). Index 1827-1873*, TFHS Inc. Hobart Branch, April 2001.

⁵³ Jennifer Parrott, 'For the Moral Good? The Government Scheme to unite Convicts with their Families 1818-1843', unpublished Master of Humanities Thesis, University of Tasmania, 1994, pp.3-6; Jennifer Parrott, 'Agents of industry and civilization: The British Government's emigration scheme for convict's wives, Van Diemen's Land, 1817-1840', *Tasmanian Historical Studies*, Vol.4, No.2, 1994, pp.25-30. See also Williams, *Ordered to the Island*, p.150.

⁵⁴ B.M. Richmond, 'Some Aspects of the History of Transportation and Immigration in Van Diemen's Land 1824-1855', unpublished M.A. Thesis, University of Tasmania, 1956, p.189; AOT, GO 1/64.

⁵⁵ Richmond, 'Transportation and Immigration', p.189; HTG 20 September 1847 p.940; AOT, CO 201/370. See also Parrott, 'For the Moral Good' pp.lviii-lx, Appendix 7c. Little work has been done

was part of the deeply entrenched system of reward and punishment: to apply for free passages for families, applicants needed to have secured steady employment and had to furnish proof that they could support themselves and their families.⁵⁶ The process was long and involved.⁵⁷ Parrott also suggested that there is no evidence of active promotion or advertisement of the scheme.⁵⁸

Not all requests were approved, and not all those offered a passage agreed to come. Reasons for declining included ill-health, being or feeling too old for the voyage, inability to raise the funds for the journey to the port of embarkation or for the shipboard outfit, unwillingness to leave married or deceased children, or simply not wishing to emigrate.⁵⁹ Some family members could not be located.⁶⁰ It is interesting to consider whether any of those women who deliberately committed crime in order to join their transported husbands had tried to come out under the convict reunion scheme. Certainly, this was the case for at least one English convict, Bridget Dart, who was tried in London in April 1826 and was sentenced to transportation for seven years for stealing a cloak from a shop. Her statement of offence read:

Married. Husband, Jonathan Dart, came here in the Lord Hungerford. I tried to come out free, but could not get leave, I committed this offence in order to come out to my husband.⁶¹

on this second phase of the scheme: Parrott's study concludes with Franklin's discontinuance of the scheme in 1842.

⁵⁶ Williams, *Ordered to the Island*, p.150. See also Parrott, 'For the Moral Good', p.10.

⁵⁷ For details of the process, see Parrott, 'For the Moral Good', pp.13-14.

⁵⁸ Parrott, 'For the Moral Good', p.56.

⁵⁹ Mesecke, *Convict Applications*: applications included English and Scottish families as well as Irish.

⁶⁰ Mesecke, *Convict Applications*. See also Champion, 'Gratuitous immigrants'.

⁶¹ AOT, CON 40/3 and MM 33/1 Bridget Dart *Sir Charles Forbes* (2) 1827 No.67. See also AOT, CON 31/9, CON 23/1 and CSO 1/403/9106 John Dart *Lord Hungerford* 1821 No.237. I am indebted to Kirsty Reid for this reference.

The practical difficulties of accessing assistance under the scheme were exemplified in the case of the Kehoe or Keogh family: Martin Kehoe attempted to bring his wife, Elizabeth, and children out under the family assistance scheme, 'but his wife had already been transported by the time that his application was approved, bringing one daughter with her.'⁶² The following year, Martin reapplied for assistance for his daughter, Margaret, but she could not be located and the letter to her was returned.⁶³ Three years later, Margaret was transported for arson.⁶⁴

None of the deliberate arsonists appear to have applied for passages for family members, although at least two Irish female arsonists, Ellen Hayes and Margaret Doogan, did so. Widow Margaret Doogan committed arson in revenge when she was dispossessed of her land.⁶⁵ In 1850, she brought with her three of her four children – ten-year-old Patrick, eleven-year-old Mary and four-year-old Ann.⁶⁶ In 1861, five years after she received her conditional pardon, Margaret applied under the scheme for a passage for twenty-three-year-old Bridget, the daughter she had left behind.⁶⁷

Johnson, in her study of the Irish convict women who arrived on the *Phoebe* in 1844, suggested that applications for family assistance indicated the strength of family ties, and resulted from an awareness that Tasmania offered better opportunities than

⁶² AOT, GO 33/66 p.917; MM 71/5 pp.561-562; CON 41/19 and CON 15/5 Elizabeth Kehoe *Kinnear* (2) 1848 No.331.

⁶³ AOT, CO 386/154 Reel 987 p.62.

⁶⁴ AOT, CON 41/36 and CON 15/8 Margaret Keogh *Midlothian* 1853 No.493.

⁶⁵ AOT, CON 41/26 and CON 15/7 Margaret Doogan *Earl Grey* 1850 No.7001; *Tipperary Vindicator* 11 July 1849 p.3 col.2; *Leinster Express* 4 July 1849 p.4 col.7; *Clare Journal* 9 July 1849 p.2 col.2.

⁶⁶ AOT, CON 41/26 and CON 15/7 Margaret Doogan *Earl Grey* 1850 No.7001.

⁶⁷ AOT, CO 386/159 Reel 987 p.168. The outcome of this application is not known.

poverty-stricken Ireland.⁶⁸ Champion, who found that application for family passage assistance was higher from post-Famine convicts, concluded that these women 'turned their transportation experience into a positive one, by giving their families the opportunity to leave the distress of Ireland, for a better life in the colonies'.⁶⁹

Reid, in his study of the families of convicts sent out under government-sponsored immigration schemes, found that many of the convict families were extremely poor.⁷⁰ Their destitution was clearly indicated by their difficulty in assembling the chest of clothing required by the Emigration Commissioners.⁷¹ Forty-five families were unable to accept the passage because they could not afford the outfit. Furthermore, they needed to find the fare from Ireland to the port of embarkation in England and the normal deposit money (£1 to £2) to provide bedding and utensils. Reid suggested that poverty was exacerbated by the loss of the head of the family through transportation. He also suggested that very few non-convict families ever reached nineteenth-century Sydney as the result of nomination for an assisted passage by a husband or wife resident in the colony.⁷² In theory, the convict reunification scheme provided an ideal opportunity for families to be reunited in colonial Australia. However, as Reid has pointed out, even with assistance, the costs could be prohibitive.

⁶⁸ Johnson, *'Phoebe'*, p.41.

⁶⁹ Champion, 'Gratuitous immigrants', p.22.

⁷⁰ Reid, 'Famine', pp.69-95.

⁷¹ Reid, 'Famine', p.85.

⁷² Reid, 'Famine', pp.85-89.

Poverty and emigration were closely related: emigration was often seen as a remedy for poverty, particularly in Ireland.⁷³ Coinciding with the peak period of female arson activity was the plan to sponsor 4,000 female orphans from Irish workhouses to Australia, the only government-sponsored migration scheme at the time.⁷⁴ Introduced by the British government in May 1848, and resulting from colonial pressure,⁷⁵ this scheme, devised by the Emigration Commissioners in conjunction with the Irish Poor Law Commissioners, aimed to select young orphans aged between fourteen and eighteen as migrants to Australia.⁷⁶ The Irish poor law system was established by the Poor Law Relief Act of 1838, and consisted of 130 unions, or groups of parishes, which contained a large workhouse to provide for the relief of paupers in the area.⁷⁷ Many orphan and deserted children had been admitted to Irish workhouses during the Famine. In mid-1847, there were 120,000 workhouse inmates, 55,000 of them children under fifteen.⁷⁸ By May 1848, sixty-eight unions had provided the Poor Law

⁷³ Hamilton, 'No Irish Need Apply', pp.223-226, 342-373: she noted that the 1830 Select Committee on the State of the Poor in Ireland, the 1833 Poor Law Commission, and the Devon Commission of 1845 all supported emigration as a means of alleviating Irish distress. See also Oliver MacDonagh, 'The Poor Law, Emigration and the Irish Question, 1830-1855', *Christus Rex*, Vol.XII, Pt 1, p.29.

⁷⁴ Joseph Robins, *The Lost Children. A Study of Charity Children in Ireland, 1700-1900*, Dublin, 1980, pp.197-221. See also Trevor McClaughlin, *Barefoot and Pregnant? Irish Famine Orphans in Australia*, 2 vols, Melbourne, 1991 and 2000; John O'Connor, *The Workhouses of Ireland. The fate of Ireland's poor*, Dublin, 1995, pp.155-176; Joseph Robins, 'The Emigration of Irish workhouse children to Australia in the 19th century' in O'Brien and Travers, *The Irish Emigrant Experience*, pp.29-45; Judy Collingwood, 'Irish Workhouse Children in Australia' in O'Brien and Travers, *The Irish Emigrant Experience*, pp.46-61; Hamilton, 'No Irish Need Apply', pp.252-253 & Chapter 7. For emigration of female orphan paupers from Ulster, see Parkhill, 'Convicts, orphans, settlers', pp.24-25.

⁷⁵ Robins, 'Irish workhouse children,' pp.29, 34-35. See also Eric Richards, 'The importance of being Irish in Colonial South Australia' in O'Brien and Travers, *The Irish Emigrant Experience*, pp.72-73: 'The single Irish girls were introduced frankly to solve the labour, sexual and reproductive requirements of the colonial population'.

⁷⁶ Robins, *Lost Children*, pp.200-203.

⁷⁷ For a discussion of the workhouse system, see Robins, *The Lost Children*, pp.10-100.

⁷⁸ Robins, *Lost Children*, pp.197-221.

commissioners with lists of suitable applicants.⁷⁹ As with all forms of assisted emigration, great emphasis was placed by the Emigration Commissioners on the importance of selecting appropriate candidates.

The scale of the scheme did not match demand. Haines suggested that the migration of 4,000 Irish workhouse orphans made little impact, so great was the level of destitution and dependency on indoor and outdoor relief.⁸⁰ Robins noted that when the last orphan ship sailed in April 1850, it left behind in the Irish workhouses over 104,000 children under the age of fifteen, many of them orphans.⁸¹ There was great pressure from the boards of guardians and other sources to extend the lists beyond the number of 2,500 originally fixed. Excitement about the scheme ran high in many Irish workhouses, perhaps fuelled by newspaper reports similar to that published in the *Tipperary Free Press* in April 1849. Writing of the departure of pauper girls for Australia, the paper commented: '[t]hey were comfortably clad, in excellent health, and in the most buoyant spirits, at the prospect of happiness'.⁸²

⁷⁹ MacDonagh, 'Irish emigration', p.355. For the organisation of the scheme, see Robins, 'Irish workhouse children,' pp.37-39. The first ship, *Earl Grey*, sailed on 4 June 1848 from Plymouth. For colonial reaction to their arrival, see Robins, 'Irish workhouse children,' pp.39-41; Robins, *Lost Children*, pp.212-3

⁸⁰ Robin Haines, ' "Shovelling Out Paupers?": Parish-Assisted Emigration from England to Australia 1834-1847', in Richards (ed.), *Poor Australian Immigrants*, pp.33-68.

⁸¹ Robins, *The Lost Children*, p.221, citing *Third Report, Irish Poor Law Commissioners* p.2. See also Robins, 'Irish workhouse children,' pp.29-45. See also *Tuam Herald* 26 July 1851 p.2 cols.5-6 for numbers of orphan paupers.

⁸² *Tipperary Free Press and Clonmel General Advertiser* 18 April 1849 p.2 col.4.

In 1850, the *Freeman's Journal* carried favourable reports from pauper orphans of the success of the scheme, noting that they had been immediately employed.⁸³ It was in stark contrast to those left behind. The *Freeman's Journal* in January 1850 wrote of the 'awful destitution' in the Scariff Union and the inadequacy of the workhouse. People were being turned away from the workhouse in dreadful weather conditions: 'Some of the poor creatures travel a distance of 12 or 14 miles for admittance; and when they find none, being fatigued and weary from their long journey, suffering from hunger and cold, and unable to return home or find shelter or food elsewhere, they remain the night lying by the wall of the workhouse'.⁸⁴ In Mallow, the guardians found that orphan girls in service in the district were leaving their posts and endeavouring to be accepted into the workhouse so that they might be selected for migration. In 1849, the Mallow Union abandoned the scheme 'so great was the rush of women who sought admission to the workhouse to be placed on the list'.⁸⁵ In one Cork workhouse, a young girl, enraged at being rejected for emigration, wilfully destroyed a new gown intended for one of her more fortunate comrades. The guardians decided to prosecute her.⁸⁶ The Sixteenth Annual Report of the Irish Poor Law Commissioners, published in 1863 but referring to an earlier instance, noted that young women in the South Dublin Union, disappointed at not being assisted to

⁸³ *Freeman's Journal* 11 July 1850 p.4 col.2.

⁸⁴ *Freeman's Journal* 11 January 1850 p.1 col.6

⁸⁵ Robins, *The Lost Children*, pp.212-213; J.S. Donnelly *The Land and People of Nineteenth Century Cork*, London, 1975, p.130. See also Hamilton, 'No Irish Need Apply', p.56.

⁸⁶ Robins, *The Lost Children*, pp.212-213.

emigrate by the board of guardians, showed their frustration in attempting to burn down the workhouse.⁸⁷

In general, the target group of the scheme – young marginalised poor women – matched the profile of the deliberate arsonists. But there are also significant areas of divergence, including age, character and workhouse experience. Some of the deliberate arsonists had been housed in the workhouse, or refused entry. For many, the workhouse was a place to be avoided.⁸⁸ Conditions in many were abysmal. Robins described them as spartan centres with a deliberately irksome regimen, designed to deter paupers from extended stays. He added that the mud-floored buildings were cold and unfriendly, and were surrounded by high prison-like walls. Inmates had to wear rough workhouse garb carrying the name of the union imprinted on it in large letters. There were two poor meals a day. The strict rules, if broken, could be punished by imprisonment in the local gaol.⁸⁹ Families were broken up and segregated.⁹⁰ Robins also stated that once workhouses started to fill up, families, in order to be admitted, were obliged to give up land in excess of quarter of an acre.⁹¹ Workhouses were a place of last resort; many had little choice but to seek admittance.

⁸⁷ NAI, Command Paper XXII (1863) *Sixteenth Annual Report of the Irish Poor Law Commissioners*, Dublin, 1863, pp.1-23.

⁸⁸ *Limerick and Clare Examiner* 17 April 1850 p.4 noted the general aversion to entering workhouses.

⁸⁹ Robins, *The Lost Children*, pp.176-182; Robins, 'Irish workhouse children', pp.31-32.

⁹⁰ Robins, 'Irish workhouse children', pp.31-32.

⁹¹ Robins, 'Irish workhouse children', p.32.

The Irish Poor Law Commissioners emphasized careful selection of pauper emigrants: unblemished moral character and sound health were important criteria.⁹² Many of the women transported for arson, especially those with previous convictions or those who had been 'on the town', would have had difficulty convincing the Guardians that their moral character was unblemished.

Many of the deliberate arsonists had links with workhouses: some had been turned out of workhouses or had been rejected as inmates. Others had negative contact with the workhouse, including setting fire to the workhouse or workhouse property.⁹³ Four women admitted to stealing workhouse clothes or clothes from the union, and Jane Allen had three previous convictions for stealing workhouse clothes before she tried to burn it down.⁹⁴ Others stated that they had been refused entry to a workhouse. Four women were linked with the Enniscorthy workhouse in Wexford. Catharine Beames and Catharine Byrne were tried in 1851 for burning an outhouse which they believed belonged to the Enniscorthy Union: 'they said they had burned the houses in order to get into gaol; and had been in the poor-house and were

⁹² Robins, 'Irish workhouse children', pp.42-43; Haines, 'Shovelling Out Paupers', p.41. See also Robins, 'Irish workhouse children', pp.32, 34, for the lack of provision for orphans and children. For numbers of children admitted, see Robins, *The Lost Children*, pp.178-182. Initially, habitual paupers, who were workhouse inmates, were not eligible for government assistance.

⁹³ This was not confined to women: in 1852, John M'Gauran, 'a low stout-built young fellow, aged about eighteen years', was charged with setting fire to a Dublin workhouse where he was a resident pauper. He had been heard plotting with other pauper boys as to how they could get themselves transported: 'In about ten minutes after he procured a lighted rag, proceeded to a straw house, and deliberately set fire to its contents, to the endangering of the whole building'. He was sentenced to transportation for 15 years. See *Freeman's Journal* 6 January 1852 p.1 col.5. See also *Freeman's Journal* 8 January 1852 p.4 col.2; *Tipperary Free Press* 10 January 1852 p.3 col.2.

⁹⁴ AQT, CON 41/30 and CON 15/7 Jane Allen. *Blackfriar* 1851 No.272.

persecuted there'.⁹⁵ Maria Collister was transported from Wexford for burning a hayrick; she admitted to a previous sentence of imprisonment of one month for stealing clothes belonging to the union workhouse.⁹⁶ As already noted, Jane Allen was transported for attempting to set fire to Enniscorthy workhouse.⁹⁷ A witness from the workhouse had heard her threaten to set fire to the workhouse or to workhouse clothes because she wanted to join her 'comrade girls' in Wexford gaol and be transported with them.⁹⁸ Maria Collister and eighteen-year-old Jane Allen both confessed to being 'on the town', for two and three years respectively.⁹⁹ Such a background would have reduced their chances of being selected as pauper migrants. Nearly one-fifth of the deliberate arsonists admitted to having been 'on the town' or 'on the streets'.¹⁰⁰

The selection criteria for the workhouse emigrant schemes were stringent, fuelled by the debate about the morality and suitability of the women for colonial households. As well, many of the arsonists were simply too old for the workhouse emigrant scheme. At least some of the arsonists, then, would not have been eligible for assistance.

⁹⁵ *Wexford Independent* 5 March 1851 p.1 col.6. Catharine Beames appears to have been tried as Catharine Barron. See also *Wexford Independent* 8 March 1851 p.4 col.5 for sentencing details.

⁹⁶ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077. See also *Wexford Independent* 14 July 1849 p.2 cols.4-5.

⁹⁷ AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272.

⁹⁸ *Wexford Independent* 6 March 1850 p.2 col.6. Jane Allen named the girls as Maria Cosker and Sarah Campbell. Cosker was quite probably Maria Collister, who was tried with Celia Kavanagh.

⁹⁹ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077; AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272.

¹⁰⁰ See Chapter Six.

Selection criteria for all forms of assisted migration were specific. Generally speaking, assistance was granted primarily to agricultural labourers, shepherds, female domestic and farm servants, and a few country mechanics. Parents of families could not be older than forty, although one year could be added for each child over fourteen. Young married couples without children were considered to be the most acceptable emigrants. All adults had to be capable of labour and intending to work for wages in the colony. Habitual paupers were rarely eligible for assistance.¹⁰¹

It was not just the pauper emigration scheme which emphasized morality. All assisted migration schemes had a strict moral basis. The 1834 Annual Report of the London Emigration Committee, cited by Rushen, exemplified this:

In selecting young unmarried women, too much care and vigilance cannot be exercised to see that they are of virtuous character. This class of emigrants is by far the most important to the colony in a moral point of view. The great object of importing young women is not merely to supply the demand for servants – it is to restore the equilibrium of the sexes; to raise the value of the female character; and to provide virtuous homes for the labouring classes of the community.¹⁰²

Marginalised women, like many of the arsonists, would have had difficulty convincing the authorities that they were capable of providing a stabilizing influence on the male-dominated ex-convict colonial population. For most of the migration schemes, health and good conduct were essential.¹⁰³ Colonists did not want ‘the idle and the worthless’, but those ‘whose education and moral and religious training afford a reasonable guarantee that they will become active and useful members of a

¹⁰¹ Madgwick, *Immigration*, p.195.

¹⁰² Rushen, ‘Free, single and female’, p.40.

¹⁰³ This matches convict selection criteria: see Oxley, *Convict Maids*, pp.60, 168, 236-7; David Meredith, ‘Full Circle? Contemporary View on Transportation’ in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.14-27.

society'.¹⁰⁴ Rushen suggested that good conduct did not necessarily mean chastity, but added that the London Emigration Committee were forced by government directives and public opinion to apply more stringent moral standards.¹⁰⁵ Application forms needed to be countersigned by respectable householders known to the applicant as well as endorsed by the parish priest.¹⁰⁶ Many of the arsonists had migrated from their native place and may have had difficulty receiving the required character endorsement for migration applications.

In summary, there were specific selection criteria for assisted immigration schemes. The deliberate arsonists sometimes matched these criteria in terms of age, occupation, skills and marital status. However, there were other significant selection criteria which may have excluded the women. Furthermore, many of the deliberate arsonists may also have been too poor to take advantage of migration schemes, even with assistance.

Two main factors – cost and family connections – seemed to have influenced Irish emigration to Australia. Some of the deliberate arsonists had family members who had been transported to the Australian colonies, including Van Diemen's Land. For those who wished to join kith or kin in Van Diemen's Land, the options for assistance were limited. As noted already, assistance to Tasmania was more limited than

¹⁰⁴ Rushen, 'Free, single and female', p.44.

¹⁰⁵ Rushen, 'Free, single and female', p.44.

¹⁰⁶ Rushen, 'Free, single and female', p.43.

elsewhere both in its duration and in the numbers assisted, even under such schemes as the convict family reunification scheme.¹⁰⁷

Family Reunion: colonial networks and chain migration

As noted in Chapter Two, family reunion was a reason given by some of the women for committing arson in order to be transported. This was consistent with patterns of Irish emigration. Morgan noted that there was a psychological advantage in knowing that there was someone that you already knew in the colony, and this was an aid to transition.¹⁰⁸ This may also have been why so many of the deliberate arsonists offended in pairs or groups.

Like many who migrated, some deliberate arsonists used transportation to try to link up with other family members. Complex networks existed between many female emigrants and the wider colonial population. At least one-third of the women in Rushen's study had colonial connections; they were not women emigrating in isolation.¹⁰⁹ Some came to join convict family members.¹¹⁰ Perry McIntyre noted that 29 per cent of emigrants on the *Lady McNaughten* in 1837 stated that they had kinship ties in the colony.¹¹¹ James Waldersee also found strong informal networks

¹⁰⁷ Gothard, 'Female migration to Tasmania', pp.386-404; Reid, 'Famine', pp.69-95.

¹⁰⁸ Morgan, 'This Land of Plenty', p.27.

¹⁰⁹ Rushen, 'Free, single and female', p.36, & 'Chapter Three: Emigration Motives', particularly the section on chain migration. Rushen's study was complicated by the lack of official documentation of family ties, of either co-emigrants or prior emigrants (convict or free).

¹¹⁰ Rushen, 'Free, single and female', p.73: Rushen identified 56 women who emigrated to join convict family members. See Parrott, 'For the Moral Good'; Parrott, 'Agents of industry', pp.25-30.

¹¹¹ McIntyre, 'Exchanged Worlds': according to McIntyre, the *Lady McNaughten* is one of the few ships for which this information is available.

of association and kinship amongst pre-Famine Irish emigrants.¹¹² Often, the women were the original or primary migrator.¹¹³ These networks also appear among convict women, including the deliberate arsonists.

Irish emigration, particularly, was characterised by chain migration, in which family members who had emigrated sent back for those left in Ireland.¹¹⁴ The tendency to seek out family members predated the Famine, but was more apparent afterwards: Frank Neal's study of Famine refugees to England and Wales,¹¹⁵ and Marianna O'Gallagher's study of Famine refugees in Canada¹¹⁶ detailed the attempts of emigrant families to re-unite with other members of their families, earlier pre-Famine migrants. There are many similarities between the stories of these refugees and those attempts by convicts to link up with other transported family members. It clearly places Irish transportation into a wider global context of emigration. Many of the deliberate arsonists stated that they were trying to join a family member or partner; many more had already had family members who had been transported. Others sent back to Ireland for family members.

¹¹² James Waldersee, 'Pre-Famine Irish Emigration to Australia', *Journal of the Australian Catholic Historical Society*, Vol.4, Part 2, 1973. See also James Waldersee, *Catholic Church and Society in New South Wales, 1788-1860*, Sydney, 1974.

¹¹³ Dymphna McLoughlin, 'Superfluous and unwanted deadweight: the emigration of nineteenth century Irish pauper women' in Patrick O'Sullivan (ed.) *The Irish World Wide. History, Heritage, Identity. Volume 4. Irish Women and Irish Migration* London, 1995, pp.66-77.

¹¹⁴ Fitzpatrick, 'Irish Emigration', pp.20-21; McConville, *Croppies, Celts and Catholics*, pp.36-37; Rushen, 'Free, single and female', p.37; David Fitzpatrick 'Irish Immigrants in Australia: Patterns of Settlement and Paths of Mobility', *Australia* 1888, 2, August 1979; Richards, 'Colonial South Australia', pp.72-73.

¹¹⁵ Frank Neal, 'The Famine Irish in England and Wales' in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 6. The Meaning of Famine*, Leicester University Press, 1997, pp.56-80.

¹¹⁶ Marianna O'Gallagher, 'The Orphans of Grosse Ile: Canada and the adoption of Irish Famine Orphans, 1847-48' in O'Sullivan (ed.), *The Meaning of Famine*, pp.81-111.

Fitzpatrick pointed out that chain migration assisted not only family but community emigration.¹¹⁷ Letters distributed throughout small communities encouraged this.¹¹⁸ Family loyalties and the clannishness of the Irish tended to strengthen emigration from localised areas, such as villages or towns.¹¹⁹ Whether this holds for the transported arsonists as it does for emigrant women is difficult to say.

Despite the difficulties of maintaining contact, it is obvious that some families managed to do so. Arsonist Mary Mulhair reunited with her two-year-old daughter, Catherine, left behind in Ireland.¹²⁰ Deliberate arsonist Margaret Leary knew that her father was with Hamilton Hume in New South Wales.¹²¹ The Keogh family maintained contact and reunited in Van Diemen's Land. As Champion suggested, this reflected the strength of family ties, even after years of absence.

James Waldersee argued that the existence of a strong kinship network, developed among Australian convicts, encouraged subsequent assisted Irish immigrants. According to Waldersee, Irish immigration to Australia was purposeful and aimed at

¹¹⁷ Fitzpatrick, *Irish Emigration*, pp.21-22. See also Parkhill, 'Convicts, orphans, settlers', p.20 for chain migration from Ulster.

¹¹⁸ Hamilton, 'No Irish Need Apply', p.59.

¹¹⁹ Hamilton, 'No Irish Need Apply', p.59. See also Cousens 'The Regional Pattern of Emigration', pp.119-134.

¹²⁰ AOT, CON 41/5 and CON 15/3 *Phoebe* 1845 Mary Mulhair No.556.

¹²¹ AOT, CON 41/19 and CON 15/5 Margaret Leary *Kinnear* (2) 1848 No.405. Margaret Leary does not appear in the Irish Transportation Database. There is an entry for Margaret 'Lenny', tried Clare for arson and sentenced to transportation for 15 years; however, her trial date is recorded as 14 January 1847; see NAI, GPO TR 7 p.189.

joining those who had come before.¹²² He noted that convict letters home, writing of Australia in glowing terms, encouraged families to join them in Australia – so much so that Bishop Ullathorne was forced to counter the impression by circulating the pamphlet ‘The Horrors of Transportation briefly unfolded’. Published in 1837, it aimed specifically at discouraging those who could not afford to emigrate from utilizing transportation to do so. Convicts continued to petition to have their families sent out; others, once emancipated, sent remittances from their earnings.¹²³

Remittances were a highly significant factor in Irish emigration.¹²⁴ Fitzpatrick argued that even paupers could be enabled to emigrate if earlier emigrating relatives forwarded remittances to them.¹²⁵ He wrote that poorer emigrants were often creative in obtaining the means to emigrate: ‘Impecunious emigrants could walk and beg their way to a sea port, rough it across the Irish Sea, save a few pounds from casual labour in southern Scotland or northern England, and ultimately invest their savings in a transatlantic passage’.¹²⁶ They demonstrated a sophisticated awareness of emigration options, educated by ‘networks of information and promotion’ in the form of posters, letters and newspapers.¹²⁷

¹²² Waldersee, ‘Pre-Famine Irish Emigration’, p.31.

¹²³ Waldersee, ‘Pre-Famine Irish Emigration’, p.31.

¹²⁴ For a discussion of remittance emigrants to Victoria, see Morgan, ‘This Land of Plenty’, pp.25-27 and esp. p.26 (a) Table 1:4. She argued that the Irish in particular were adept at using government schemes to bring out relatives and friends and used the Land and Immigration deposit scheme to great advantage. See also Kennedy, *The Irish*, p.22; Hamilton, ‘No Irish Need Apply’, pp.55, 63-64, 67-68; S.H. Cousens, ‘The Regional Variations in Population Changes in Ireland, 1861-1881’, *Economic History Review*, Second Series, Vol.17, No.2, December 1964, pp.311-313.

¹²⁵ Fitzpatrick, *Irish Emigration*, p.22.

¹²⁶ Fitzpatrick, *Irish Emigration*, p.23.

¹²⁷ Fitzpatrick, *Irish Emigration*, pp.24-25.

Certainly, there is evidence of the existence of colonial kinship networks as well as chain migration of family members among the arsonists. In some instances, however, families moved on and the dislocation caused by the Famine exacerbated this. As already noted, some letters sent in connection with convict applications for family members to emigrate were returned, address unknown. The lack of communication is demonstrated in those instances such as Martin Kehoe's application for his family to join him; his wife was transported before this could be given effect. Difficult as it was in England, Wales and Canada, how much more difficult it must have been for those trying to reach family members who had been transported to Van Diemen's Land, and may well have moved on to the Victorian goldfields and changed their names.

Still, some communication was successful. The extent to which transportees maintained contact with family and friends is only beginning to be discovered, but there is evidence that, even for the illiterate, contact did not cease on transportation. Writing of Irish emigrants to Australia, Fitzpatrick suggested that, Australia as a destination was 'an option ... kept in public mind by emigrant letters, newspaper stories, and the dense networks of shipping sub-agencies which already served the bounty contractors in the early 1840s'.¹²⁸ Green stressed the importance that migrants' letters, including 'reverse emigrant letters', had on maintaining the impetus

¹²⁸ David Fitzpatrick, 'Irish Immigration to Australia 1840-1914', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, pp.55.

of emigration.¹²⁹ Parkhill concurred: 'There can be no doubt that the publicity of an emigrant's letter, both within a local circle of friends and to a broader readership, demonstrated to many the practicability of a root and branch family emigration'.¹³⁰ Many examples of migrant letters were published in county newspapers, and were frequently copied in other newspapers.¹³¹ In 1849, the *Galway Mercury* published an extensive letter from a successful emigrant under the heading 'Emigration to Australia', detailing high wages, good prospects, and abundant food: 'On Christmas Day I had lamb and green peas for dinner, gooseberry pie and plumpudding. My master sent two bottles of brandy and two bottles of rum'.¹³² The writer urged 'Do not hesitate one day, but go and get your papers and come out here to the Land of Paradise'.¹³³

The information contained in letters was reinforced by a range of information carried in newspapers.¹³⁴ The *Roscommon and Leitrim Gazette*, under the heading 'Australian Prospects for Women', stated that domestic servants were in great demand and could obtain from £16 to £25 annually and 'I am unwilling to hint even at the number of decent girls who would find good, respectable honest husbands'.¹³⁵

¹²⁹ E.R.R. Green in 'Ulster Emigrant Letters' in *Essays in Scotch-Irish History*, London, 1969. The term 'reverse emigrant letters' refers to the letters written by those who remained.

¹³⁰ Parkhill, 'Convicts, orphans, settlers', p.18.

¹³¹ *Roscommon and Leitrim Gazette* 17 March 1849 p.1 col.4; *Limerick Reporter* 26 June 1850 p.4 col.6 (from *Leinster Express*); *Tipperary Free Press* 3 May 1851 p.4 col.3.

¹³² *Galway Mercury* 14 July 1849 p.1 col.4.

¹³³ *Galway Mercury* 14 July 1849 p.1 col.4.

¹³⁴ See, for example, *Southern Reporter and Cork Commercial Crier* 19 September 1848 p.3 col.2 which carried a comprehensive summary of the 1847 Census of Van Diemen's Land. See also *Tipperary Free Press* 7 January 1852 p.1 cols.2-4 for Caroline Chisholm's perspective on migration to Australia.

¹³⁵ *Roscommon and Leitrim Gazette* 31 March 1849 p.1 col.5.

Housing, too, was affordable: in Van Diemen's Land, a hut fit for a labourer could be had for £10 to £15; a slab hut for a shepherd for £5, and in the towns a building of brick or stone, for £20 or £35. Rented properties could be had from 2/-; the average was 5/-.¹³⁶ At the same time, negative reports of life in America – of misery, poverty, destitution, wretchedness and starvation – were appearing.¹³⁷

Newspaper reports were also influential in determining destination. Parkhill wrote of rhetoric aimed to combat penal colony images appearing in Ulster newspapers from the 1830s.¹³⁸ Letters countering adverse comments about Australia reinforced this. Negative comments were rare after the discovery of gold in Australia in the 1850s.¹³⁹ The discovery of gold was highly influential in the choice of Australia as a destination: 'Apart, perhaps, from free passages, the gold rush was the single most important factor in luring Irish emigrants away from America and towards Australia. The extra expense involved in getting there; the tyranny of distance; the concern over Vandemonians and Aborigines: all were as nothing compared with the possibility of instantaneous wealth thought to await immigrants on the goldfields of the south'.¹⁴⁰

Like migrants, some convicts sent back to Ireland for family members. Others, including a number of the deliberate arsonists, had spouses or family members who had been transported. This information, extracted at the initial colonial interview,

¹³⁶ *Roscommon and Leitrim Gazette* 28 April 1849 p.4 col.4.

¹³⁷ *Limerick Reporter* 23 April 1850 p.4 col.4.

¹³⁸ Parkhill, 'Convicts, orphans, settlers', pp.17-19.

¹³⁹ Morgan, 'This Land of Plenty', pp.28-30.

¹⁴⁰ Morgan, 'This Land of Plenty', p.30.

was recorded on the convict indent, as part of the information about living relatives. Information about living family members, who had emigrated or were soldiers, as well as those who remained at the convict's native place, was also recorded. The reason authorities asked about relatives is not clear. Nor is the actual question asked: some convicts provided details about relatives who had emigrated, not just to Van Diemen's Land or New South Wales, but to America as well.

In Van Diemen's Land, convicts and their families were reunited unofficially as well as with the sanction and assistance of the government. Little work has been done on those families who used their own means to join convict relatives in Van Diemen's Land. Fares may have been paid by the transported family member, friends or parishes. Those family members who arrived as fare-paying or assisted emigrants are difficult to locate unless they had some contact with colonial authorities.¹⁴¹

The story of the Kehoe or Keogh family exemplifies many of the characteristics of Irish family migration interlocked with transportation.¹⁴² A twenty-year-old-housemaid, Margaret Keogh was tried for arson in Wexford on 27 December 1852.¹⁴³ Her indent noted that her father, Martin, and her mother, Eliza, had both been

¹⁴¹ Parrott, 'For the Moral Good', pp.85-87. See, for example, Mary Mulhair *Phoebe* 1844, and her daughter, Catharine, who arrived in Hobart c1860: AOT, CON 41/5 and CON 15/3 Mary Mulhair *Phoebe* 1845 No.556; *The Mercury* 2 January 1860 p.2 col.7; 19 April 1860 p.2 cols.7-8.

¹⁴² See Margaret Siegmann, *Wexford to Van Diemen's Land: The Kehoe Family in Tasmania from 1843*, the author, January 1993. A copy is held in the Archives Office of Tasmania *Correspondence File: "Keogh"*. There are many spellings of this family surname; in this thesis, the spelling adopted is that used on the document being examined.

¹⁴³ NAI, GPO TR 12 p.274: Margaret 'Kehoe'; *Wexford Independent* 6 March 1852 p.2 col.2; AOT, 41/36 and CON 15/8 Margaret Keogh *Midlothian* 1853 No.493.

transported 'four years since'. She also had a sister, Jane, in America.¹⁴⁴ The indent for Margaret Keogh reveals only a small part of the story, for several of her siblings also relocated from Wexford to Van Diemen's Land, as a result of transportation or with government assistance. Her father Martin was the primary migrator, arriving in 1843.¹⁴⁵ Three years later, the next member of the family, nineteen-year-old Ann, arrived, transported for stealing.¹⁴⁶ In 1848, as a ticket-of-leave holder, Martin applied for his wife, Elizabeth, and family to join him.¹⁴⁷ In the meantime, however, Elizabeth had been transported for stealing geese, arriving in the colony in October 1848 with her youngest daughter, Mary.¹⁴⁸ Martin's application was approved just days before the arrival of his wife and daughter.¹⁴⁹ In 1849, he reapplied for a passage for his older daughter, Margaret, but the letter to her was returned.¹⁵⁰ In that year, Margaret's brother, Patrick, arrived, transported for stealing three sheep.¹⁵¹ As already noted, Margaret arrived in 1853. The following year, her sister Bridget

¹⁴⁴ AOT, CON 15/8 Margaret Keogh *Midlothian* 1853 No.493.

¹⁴⁵ NAI, GPO TR 4 p.185 Martin Kehoe; AOT, CON 33/47, CON 14/27 and CON 18/36 Martin Kehoe *Orator* 1843 No.14143; NAI, CRF 1842 K 37: his petition noted that he had a wife and 8 children dependent upon his support. See also NAI, CRF 1843 K 15. He was transported for 7 years for stealing sheep.

¹⁴⁶ NAI, GPO TR 6 p.357: Anne Kehoe; AOT, CON 41/14 Anne Keogh *Waverley* (3) 1847. A 19-year-old housemaid, she was tried in Wexford in 1846 for stealing a fowl and some wheat.

¹⁴⁷ AOT, GO 33/66 p.917; MM 71/5 pp.561-562. His children were listed Patrick aged 20, Margaret aged 12, Mary aged 9 and John aged 8.

¹⁴⁸ NAI, GPO TR 7 p.288: Elizabeth Kehoe; AOT, CON 41/19, CON 15/5 and CON 19/7 Elizabeth Kehoe *Kinnear* (2) 1848 No.331. She was tried on 3 January 1848; it was her 3rd conviction and she was sentenced to transportation for 7 years. Mary was admitted to the Orphan School on arrival and remained there until she was discharged to her father, Martin, after he had served his sentence. For Mary, see Siegmann, *Wexford*, pp.87-89.

¹⁴⁹ AOT, MM 71/5 pp.561-562.

¹⁵⁰ AOT, CO 386/154 Reel 987 p.62.

¹⁵¹ Siegmann, *Wexford*, pp.10-29. See also AOT, CON 33/92 and CON 14/39 Patrick Keogh *Pestongee Bomangee* (3) 1849 No.21276. His indent noted that he had a brother, John, and a sister, Bridget.

arrived as a free emigrant.¹⁵² In August 1857, a brother, William, a twenty-five-year-old labourer from County Carlow, arrived on the application of his brother-in-law, Michael Burke, husband of Bridget.¹⁵³ In September 1857, the last member of Margaret's family to arrive in Tasmania was her brother, John, who arrived on application of his mother, Elizabeth.¹⁵⁴ By a combination of transportation, free and assisted immigration, all but one member of the family relocated to Van Diemen's Land, in a complex but characteristic example of Irish chain migration.¹⁵⁵

Other deliberate arsonists had family members who had been transported. Of the five women tried together in Tipperary in July 1849 and transported on the *Earl Grey* in 1850, two were married. The motivations of the group, dubbed the 'Tipperary Five' by Richard Davis,¹⁵⁶ are difficult to unravel, but the husbands of the two married women had both been transported. Margaret Butler, a twenty-four year old country servant originally from Kilkenny, stated that her husband, Michael Renehan, was 'a convict five years since' – he had been tried at Waterford and sentenced to transportation for seven years.¹⁵⁷ Margaret Butler was not reunited with her husband

¹⁵² AOT, CB 7/12/1 p.276: *Duchess of Northumberland*. See Siegmann, *Wexford*, pp.30-47.

¹⁵³ AOT, CB 7/12/7 p.360. See also AOT *Correspondence File*: 'William KEOGH' and Siegmann, *Wexford*, pp.67-75. William, a 25-year-old labourer from County Carlow, arrived on the *Sir WF Williams* on 18 August 1857. He married Jane Roach in Hobart in 1863 and was tried in the Supreme Court in Hobart on 4 March 1879: AOT, GD 76/4 p.61.

¹⁵⁴ AOT, CB 7/12/7 p.366; AOT, CB 7/20: John arrived on the *Antipodes* on 13 September 1857. He was 20-years-old, Roman Catholic, could read and write, and was a shoemaker and labourer.

¹⁵⁵ AOT, CON 15/8 Margaret Keogh *Midlothian* 1853 No.493: her sister, Jane, emigrated to America.

¹⁵⁶ Richard Davis, ' "Not So Bad as a Bad Marriage": Irish Transportation Policies in the 1840s', *THRAPP*, Vol.47, No.1, March 2000, pp.55-56.

¹⁵⁷ AOT, CON 15/6 Margaret Butler *Earl Grey* 1850 No.1048. Her other relatives, who were living at her native place in Kilkenny, included her mother, Mary, and two sisters, Jane and Kitty.

in Van Diemen's Land; both had colonial marriages.¹⁵⁸ However, Margaret's mother, Mary Nolan alias Butler, was also transported for arson, arriving on the *Duke of Cornwall* in 1850. She stated that she had committed the offence to follow her daughter, 'Peggy' Butler, a convict by the *Earl Grey*.¹⁵⁹ It is likely that mother and daughter met again in Van Diemen's Land, as both were in the Ross district in 1852.¹⁶⁰

The other member of the Tipperary group whose husband had been transported was Alice Collins, a twenty-two-year-old country servant from Tipperary: she stated that her husband, Denis Collins, had been a prisoner for seven years. Denis arrived in Van Diemen's Land on the *Hyderabad* in August 1849; he had been transported for seven years, with James Clancy, for pig-stealing. James Clancy may have been a relative of Alice Collins, whose maiden name was Clancy.¹⁶¹ Unlike Margaret Butler and Michael Renihan, Alice and Denis Collins were reunited in Van Diemen's Land: in March 1852, Alice was assigned to her husband. The couple lived in the Westbury and Deloraine districts, and had several children.¹⁶²

¹⁵⁸ AOT, CON 41/26 and CON 15/6 Margaret Butler *Earl Grey* 1850 No.1048. See also Davis, 'Not So Bad as a Bad Marriage', pp.55-56.

¹⁵⁹ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208.

¹⁶⁰ AOT, CON 41/26 Margaret Butler *Earl Grey* 1850 No.1048; CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208.

¹⁶¹ AOT, CON 14/38 James Clancy *Hyderabad* (2) 1849 No.21795. His indent noted that his mother was Mary, that he had two brothers, Michael and William, and sisters Ella and Anne at his native place in Tipperary.

¹⁶² AOT, CON 14/38 Denis Collins *Hyderabad* (2) 1849 No.21794: Denis Collins had two children in Ireland. The Tasmanian-born children were Margaret Collins [AOT, RGD 33/34 1856 Westbury No.1706]; Anne Jane Collins [AOT, RGD 33/38 1860 Deloraine No.834]; Alice Collins [AOT, RGD 33/41 1863 Deloraine No.263]; Dennis Collins [AOT, RGD 33/43 1865 Deloraine No.274]; Michael James Collins [AOT, RGD 33/47 1869 Deloraine No.233]. See also Davis, 'Not so bad as a bad marriage' p.55.

Five members of the Butler or Corry family from County Clare were also transported. Ann Corry, tried in February 1849 in County Clare, was tried with her mother, Bridget (or Mary) Butler.¹⁶³ Ann Corry's indent noted that she had brothers, John and Pat, 'prisoners twelve months since' and a sister, Margaret – 'a prisoner for 10 years' – transported on the *Kinnear*.¹⁶⁴ Margaret and Ann were reunited: the sisters witnessed each other's marriage, and Margaret was a sponsor at the baptism of Ann's son.¹⁶⁵

Other deliberate arsonists had one family member who had been transported. Ellen Gallavan's brother, Dennis Galvin, was 'a prisoner in this colony 7 years about two years since'.¹⁶⁶ Elizabeth Coghlan's brother, Cornelius, was 'a prisoner last ship'.¹⁶⁷ Catherine Hayes' husband, Michael, had been transported to Sydney.¹⁶⁸

¹⁶³ NAI GPO TR 9 p.10F; AOT, CON 15/6 Bridget Butler *Australasia* 1849; *Freeman's Journal* 3 March 1849 p.2 col.1; AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000: According to Ann Corry's indent, she was tried with her mother, Mary Butler, who died on board the *Australasia*. While there is no record of a Mary Butler on board, there is one of Bridget Butler, who died at sea on 28 September 1849. She had been tried in Clare on 27 February 1849 and sentenced to transportation for 7 years.

¹⁶⁴ AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000. Margaret was transported as Margaret Quealy: AOT, CON 41/19 *Kinnear* 1848 No.26.

¹⁶⁵ AOT, RGD 37/10 1851 Hobart No.524: Corry/Gallagher (7 April 1851); AOT, NS 1052/13 Roman Catholic Marriages Campbell Town and Ross (30 April 1862); AOT, NS 1052/13 Roman Catholic Baptisms Campbell Town and Ross (29 April 1862).

¹⁶⁶ AOT, CON 15/5 Ellen Gallavan *Maria* (2) 1849 No.495.

¹⁶⁷ AOT, CON 15/5 Elizabeth Coghlan *Maria* (2) 1849 No.966. The *Irish Transportation Register* lists Cornelius Coghlan, who was tried in Cork on 4 October 1847 for larceny of shoes. He does not appear to have been transported to Van Diemen's Land. The *Tasmanian Convict index* does have an entry for Cornelius Colgan, who arrived on the *Blenheim* (2), which departed from Dublin on 1 November 1848 and arrived on 20 February 1849. However, he was a 23-year-old broom maker, from County Down, who had been tried in Down in March 1847 for stealing a donkey. See: NAI, GPO TR 7 p.30: Cornelius Coghlan; AOT, CON 33/93 Cornelius Colgan *Blenheim* (2) 1849 No.21500.

¹⁶⁸ AOT, CON 41/35 and CON 15/7 Catherine Hayes *Martin Luther* 1852 No.947.

In most instances, it is impossible to determine whether the committal of a transportable offence by an individual who already had family members transported was an attempt at family reunion.¹⁶⁹ It is also impossible to say how much influence having a transported family member had in encouraging those who remained behind to commit crime. In some cases, loss of a breadwinner may have been a factor.

Some of the deliberate arsonists, however, did explain that they had offended in order to join family members. Ellen Farrell, tried in Kildare in 1846, stated that she had deliberately committed arson 'for the purpose of being transported, to be with my sister', Mary, who was 'in this colony 7 years a prisoner'.¹⁷⁰ Even where transported family members have been identified on indents, locating them can be difficult. Ellen Farrell's sister and Ann Corry's brothers have proved elusive. Given the difficulty of identifying the transported relative when the names were common, or when names varied or changed, it is interesting to consider why the information was sought in the first place.

While little work has been done on how many were actually reunited, some families were recreated in Van Diemen's Land. What is clear, though, is that transportation, at least for some, was an acceptable alternative to poverty and difficult life circumstances.

¹⁶⁹ cf. Champion, 'Gratuitous immigrants' p.22 who said that the fact that some of the arsonists had family members transported (even though they did not state that they had deliberately committed their crime) was 'a powerful reason for the women to use transportation as emigration'.

¹⁷⁰ AOT, CON 41/19 and CON 15/5 Ellen Farrell *Lord Auckland* (3) 1849 No.401.

For the deliberate arsonists, transportation was viewed as a legitimate form of migration. Champion suggested that the facility with which some families could reunite in Van Diemen's Land encouraged the notion that transportation was a means of migration, rather than punishment.¹⁷¹ She broached the incongruity between concern expressed by the authorities that transportation was 'gratuitous emigration' and their encouragement of passages for extended family members of convicts. The fundamental difference between transportation and emigration was that transportation was constructed as a punishment. However, as noted in Chapter Two, there were many convicts for whom transportation was not simply a punishment. Certainly, in the case of some women in Ireland who deliberately committed arson in order to be transported, transportation was viewed neither as a punishment nor an act to be feared. Margaret Bourke and Catherine Duggan, for example, both stated that they committed arson in order to better their condition.¹⁷² For some, transportation was seen as a means to achieve a better life, and so was viewed in much the same way as migration.

The fear by administrators and lawmakers that the punishment aspect of transportation was overshadowed by perceived benefits was long-standing.¹⁷³ In 1830–1831, the Select Committee on Secondary Punishments heard evidence that

¹⁷¹ Champion, 'Prostitutes, hardened offenders or gratuitous immigrants', p.22. See also Champion, 'Not Hardened Offenders'.

¹⁷² AOT, CON 41/36 Margaret Bourke *Midlothian* No.1213; Catherine Duggan *Midlothian* No.841.

¹⁷³ See, for example, *BPP, Report from the Commission of Inquiry into the State of the Colony of NSW*, 1822; Vol. XX, C448, p. 63, also known as the Bigge Report.

convicts did not always regard transportation as punishment.¹⁷⁴ Later this view was to become particularly associated with transportation from post-Famine Ireland. In 1849, for example, Assistant Under Secretary Herman Merivale declared his fear that 'transportation from Ireland, instead of being a punishment, may come to be looked at as a reward'.¹⁷⁵ This was heightened with the discovery of gold in Australia, as indicated by a report in the *Freeman's Journal* in 1851:

The position of a labouring man in the colonies is already so much superior to that which he occupies in the mother country that transportation has ceased to inspire dread, and a criminal gravely asked the judge the other day to increase the length of his sentence in order to make his deportation certain. Let there be added to these inducements the prospect of digging up gold without diving into other people's pockets under the prying eye of a policeman, and the temptation to crime will be perfectly irresistible; there will be a regular run on the minor class of offences, punishment will be turned into a reward, and that which is meant to deter will be the inducement to crime.¹⁷⁶

When the core aspect of transportation – that is, punishment – is diluted or removed, the similarities between transportation and emigration are enhanced, and transportation becomes a feasible option.¹⁷⁷

At the personal level, it is impossible to determine what prompted individual women to migrate or commit arson in order to be transported, but it is possible to reveal

¹⁷⁴ BPP, 1831-32, VII, *Select Committee on Secondary Punishment*: evidence of T. Potter Macqueen. See also Richmond, 'Transportation and Immigration', pp.120-125 for a discussion of the problem of the perceived benefits of transportation and Governor Arthur's response.

¹⁷⁵ AOT, GO 1/75 p.172: Merivale to Waddington 11 June 1849. Merivale was appointed British Assistant Under Secretary in 1848. See also Avril Harvey, 'Herman Merivale, the Colonial Office and the Australian Colonies 1848-1860', *JRAHS*, Vol.60 Part 2, June 1974, pp.89-104.

¹⁷⁶ *Freeman's Journal* 5 September 1851 p.4 col. 4.

¹⁷⁷ See Stephen Nicholas and Peter R. Shergold, 'Transportation as Global Migration' in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, p.38: 'Transportation, like the movement of indentured servants, was a means of recruiting labour through migration. The major difference was that while indentured workers signed their contract 'willingly' with private employers, transportees were selected by the state on the basis of their criminality. Convictism, like indenture, represented a half-way stage between a slave and free labour system; its bonded workers looked forward to freedom at a clearly defined point in the future'.

something of the experience. As Charlotte Macdonald suggested, the 'dimensions of inference are considerable' but some information and a partial picture are better than none at all.¹⁷⁸ Everett S. Lee's theory of migration offers an explanation for the reasons behind migration.¹⁷⁹ It explains migration in terms of positive and negative characteristics of the place of origin and place of destination. For migrants, there must be some advantage in relocation. However, this perceived advantage can be tempered by other influences, or obstacles, including family pressures, misinformation, travel costs, political policy and language. Lee also recognised the importance of perception in determining individual experience of migration. For the deliberate arsonists, the positive characteristics offered by transportation as a form of migration outweighed the negative factors of remaining behind. In the same way, the benefits offered by transportation as a form of migration compensated for the disadvantages of self-funded migration or migration schemes.

For some disenchanted migrants, transportation was even perceived as preferable to migration. Rushen cited a letter written by a free migrant to her father in 1833. Describing her shipboard experience, the woman criticised the provisions: 'even

¹⁷⁸ Charlotte Macdonald, *A Woman of Good Character. Single Women as Immigrant Settlers in Nineteenth-century New Zealand*, Wellington, 1990, p.13.

¹⁷⁹ Everett S. Lee, 'A theory of migration', *Demography*, Vol. 3 No.1, 1966, pp.47-57: Lee extended the migration theory postulated by E.G. Ravenstein, 'The laws of migration', *Journal of the Statistical Society*, Vol.XLVIII, Part II, June 1885, pp.167-227, and 'The Laws of Migration, second paper', *Journal of the Statistical Society*, Vol.LII, June 1889, pp.241-301. For Ravenstein, the main cause of migration was economic. For the application of Lee's theory to Irish migration studies, see Patrick O'Sullivan (ed), *The Irish World Wide. History, Heritage, Identity. Volume 1. Patterns of Migration*, Leicester, London and New York, p.xvii.

convicts were better treated and received more meat and wine'.¹⁸⁰ As early as 1844, the *Freeman's Journal* in Dublin published a letter from a disillusioned migrant to New South Wales, a mechanic, who warned that migrants faced poverty, inhumanity, and neglect:

A thousand times better for them had they been transported, for then the government would be bound to maintain them; whereas, unprotected as they are – bereft of every sympathy, their privations and utter destitution, is indescribable.¹⁸¹

As well, there was low mortality on convict ships compared to free ships.¹⁸² It is difficult, however, to determine how widespread and influential was the view that transportation was preferable to migration and whether the deliberate arsonists were encouraged by such attitudes.

Perhaps the arsonists fall into Fitzpatrick's group of canny and creative pauper emigrants, who demonstrated a sophisticated awareness of emigration options, educated by 'networks of information and promotion' in the forms of posters, letters and newsletters.¹⁸³ Australia was widely promoted as a land of opportunity. In the 1830s, the London Emigration Committee, for example, advertised its scheme widely; circulars and notices were sent to postmasters for distribution to the local clergy and for prominent display throughout towns and villages. Advertisements

¹⁸⁰ Rushen, 'Free, single and female', p.85: letter of Ann Sergeant to her father 17 September 1833.

¹⁸¹ *Freeman's Journal* 24 July 1844 p.2 col.5.

¹⁸² Nicholas and Shergold, 'Convicts as Migrants' in Nicholas (ed.), *Convict Workers*, p.48. See also Bryan Gandevia, 'Medical History in an Australian Environment', *Medical Journal of Australia*, Vol.18, 1967, p.943.

¹⁸³ Fitzpatrick, *Irish Emigration*, p.23.

were placed in major newspapers and the provincial towns and reports of the departure of the ships ensured wide publicity.¹⁸⁴

A passage on a convict ship may have been the first stage of a more elaborate migration plan.¹⁸⁵ Historians have commented on the paucity of geographical knowledge of emigrants: of Irish girls who thought they could walk to Sydney or Melbourne from Adelaide;¹⁸⁶ of women so eager to emigrate that they boarded the first available ship to Australia rather than going to a designated colony and, on arrival, were forced to take an additional voyage in order to locate themselves with their families and friends.¹⁸⁷ Gothard wrote of female emigrants being forced to stay in Tasmania: for some, it was just the first stage in their migration.¹⁸⁸ For some of the deliberate arsonists, perhaps, Van Diemen's Land was intended as the first port of call. Margaret Leary, a widow, may fall into this category: tried in Clare in 1848, Margaret stated that she committed the offence to join her father 'in this colony', adding that her father was with Hamilton Hume in New South Wales.¹⁸⁹ It is also possible that her geographical knowledge was limited.

In O'Farrell's view, there were two salient features of Irish migration to Australia: firstly, the migrants included those seeking adventure, drawn by the lure of gold, and

¹⁸⁴ Rushen, 'Free, single and female', p.46.

¹⁸⁵ Nicholas and Shergold, 'Convicts as Migrants' in Nicholas (ed.), *Convict Workers*, pp.53-54, suggested that migration occurs in stages.

¹⁸⁶ See, for example, O'Farrell, *The Irish in Australia*, p.65.

¹⁸⁷ Rushen, 'Free, single and female', p.74.

¹⁸⁸ Gothard, 'Government-assisted migration', p.59.

¹⁸⁹ AOT, CON 41/19 and CON 15/5 Margaret Leary *Kinnear* (2) 1848 No.405. She married, settled and died in Tasmania.

secondly, those moved by enterprise and calculation. He argued that migrants to America were desperate Famine migrants, but those who came to Australia made deliberate and thoughtful decisions about the migration process.¹⁹⁰ Some of the deliberate arsonists may have been motivated by desperation and hunger, but they also calculated and planned in a way similar to other migrants. Transportation and emigration were both mechanisms to facilitate change.

In conclusion, migration was a complex, conscious and individual decision. In many ways, migration to Australia had parallels in the convict transportation system. The selection, treatment, reception and colonial perception of convict and free migrant women were similar. For many of the convict women, the punishment aspect of transportation was diminished and transportation, like migration, was a means to a better life; their manipulation of it was a reflection of their determination to take control of their lives. The Famine played a significant role in Irish migration but Famine migration to Australia was limited. The costs of migration to Australia were a major deterrent to Irish migrants, although migration to Australia was often painted in a positive light, and was considered ordered, organised and protected. Assisted migration schemes had strict selection criteria and were slanted towards young, healthy, single women. However, many marginalised women in Ireland were not eligible for assistance, or were too poor to migrate even with assistance. Cormac Ó Gráda, writing about migration and the Great Famine, suggested that the really poor

¹⁹⁰ O'Farrell, *The Irish in Australia*, pp.63-65. See also McConville, *Croppies, Celts and Catholics*, p.35; Rushen, *'Free, single and female'*, p.119: emigration held special appeal for the enterprising, ambitious and adventurous.

were left behind, and argued that a poverty trap may well have prevented some of the very poorest from leaving.¹⁹¹ Given what we know about the background of the women who deliberately committed arson in order to be transported, it is likely that they fall into this group. As Daly pointed out, although some of the 'truly destitute' were assisted to emigrate by benevolent landlords, it was difficult and the numbers were small.¹⁹² Those assisted to leave by landlords, for example, were generally the poorest. As migrants, they were ill-equipped, frequently travelling with ragged, dirty and inadequate clothing. Cheap passages often provided little in the way of food and many Famine emigrants lacked the funds to bring their own.¹⁹³ For many poor women in Famine and post-Famine Ireland, migration was not an option: they could not afford the costs associated with it. Others were not eligible for assistance under migration schemes. The deliberate arsonists used transportation as a form of emigration. Transportation and emigration were both mechanisms to facilitate change. Like migrants, the deliberate arsonists used transportation to actively seek change, to better their conditions and to join family members. They were creative and calculated in the face of the massive social dislocation of post-Famine Ireland. Transportation was a viable option for those 'too poor to emigrate'.¹⁹⁴

¹⁹¹ Cormac Ó Gráda, *Ireland. A New Economic History 1780-1939*, Oxford, 1994, p.202.

¹⁹² Daly, *The Famine*, p.107.

¹⁹³ Daly, *The Famine*, pp.107-108.

¹⁹⁴ *Freeman's Journal* 8 July 1851, p.2 col.2-3.

PART TWO: 'ON HER OWN HANDS'

'Except for their gravestones and their children, they left nothing
identifiable behind them'.¹

The first part of this thesis focused on who the women were, where they came from, what they did, what their motives were for doing what they did, and how they explained their actions themselves. There is no evidence that the women were social or political offenders, but there is a strong suggestion that the women, especially those who admitted to courting transportation, were using transportation as a form of emigration. Whether the women stated this or not, there was a firm underlying belief that transportation would lead to a better life and, to a lesser extent, would reunite them with family or friends. The second part of this thesis tests this belief by examining the colonial experience of the deliberate arsonists. Inevitably, this includes an examination of the lives of the women once they were technically free, when they were 'on their own hands'. As Mary E. Daly advocated, writing of the historiography of the famine, 'perhaps we should ask "who died and who survived, when, where, and why"'.² Accordingly, this introduction seeks to establish critical determinants of the life experiences of the deliberate arsonists.

¹ E.J. Hobsbawm and George Rudé, *Captain Swing*, London, 1970, p.12.

² Mary E. Daly, 'Historians and the Famine: a beleaguered species?', *Irish Historical Studies*, Vol.30, No.120, November 1997, p.601.

Part Two of this thesis also explores the notion that the women – because they were young and single with adaptable skills – were an ideal human capital resource.³ It examines whether the activities of the women in Van Diemen's Land fulfilled the expectations of those officials motivated by human capital arguments. Such an examination is predicated on a belief that the aspirations of the women and the officials who sent them are likely to be different: they measured success differently.

By reconstructing fragmentary evidence, the second part attempts to understand how the women negotiated the experience of emancipation as enterprising agents rather than passive victims. It considers whether the deliberate arsonists, although constrained by colonial policies and attitudes, were nonetheless active agents in shaping their circumstances and outcomes, and whether they used the opportunities available to them. The section also considers Lake's suggestion that the terms 'victim' and 'agent' are not necessarily mutually incompatible.⁴

The second part also examines the implications for colonial experience of a convict past. Along with impediments to success such as religion, illiteracy, lack of skills, social dislocation and bigotry,⁵ convicts and emancipists faced the additional barrier

³ Human capital has been defined as 'the stock of skills and productive knowledge embodied in people': see Sherwin Rosen, 'Human Capital', in John Eatwell, Murray Milgate and Peter Newman (eds.), *The New Palgrave Social Economics*, London, 1989, p.136. See also Noel G. Butlin, 'White Human Capital in Australia, 1788-1850', *Working Papers in Economic History*, No.32, 1985, ANU.

⁴ Marilyn Lake, 'Convict Women as Objects of Male Vision: An Historiographical Review', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.1, 1988, p.48.

⁵ David Fitzpatrick, 'Irish Immigration to Australia', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.58. See also John Williams, 'Irish Convicts in Tasmania', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.29.

of a convict history. Williams suggested that many Irish convicts 'probably escaped the stigma of convictism by moving to mainland colonies',⁶ while those that remained had 'nothing to fear from their convict heritage'.⁷ This was because most were 'basically honest men and women caught in the poverty, famine and conflicts that were part of Irish history during the 1840s and 1850s'.⁸ Elsewhere, however, he acknowledged that convict heritage was either concealed or considered shameful until well into the twentieth century: 'most families hid the fact that they had convict ancestors ... Tasmanians wished to distance themselves from what they believed to be a sordid past and a stain on their society'.⁹ At a time when many of the arsonists were 'on their own hands', the anti-transportation movement was most virulent.¹⁰ While the impact of the anti-transportation movement on the disclosure or denial of convict heritage is problematic, to some extent it swayed the social climate in which the arsonists lived.¹¹ Yet, as with so much of their colonial experience, their individual perspective and awareness of the issue remains hidden.

⁶ Williams, 'Irish Convicts in Tasmania', p.29. But anti-Catholic and anti-Irish sentiment followed those who moved interstate: for Victoria in the 1860s, see Margaret Pawsey, 'Aliens in a British and Protestant Land: Early Culture Clashes in Victoria' in Colm Kiernan (ed.), *Australian and Ireland 1788-1988. Bicentenary Essays*, Dublin, 1986, pp.72-87.

⁷ Williams, 'Irish Convicts in Tasmania', p.29.

⁸ Williams, 'Irish Convicts in Tasmania', p.29.

⁹ John Williams, 'Irish Female Convicts and Tasmania', *Labour History*, No.44, 1983, p.17. See also Alison Alexander, 'The Legacy of the Convict System', *Tasmanian Historical Studies*, Vol.6, No.1, 1998, pp.48-59.

¹⁰ See also Richard Davis and Stefan Petrow (eds.), *Varieties of Vice-Regal Life by Sir William and Lady Denison*, Hobart, 2004, *passim*, for comments on the anti-transportation movement.

¹¹ Michael Roe, 'The Ubiquity of Irishness in Tasmanian History. One Generalist's Experience', *Bulletin for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.85; For the anti-transportationist position, see A.G.L. Shaw (ed.), John West, *The History of Tasmania with copious information respecting the colonies of New South Wales, Victoria, South Australia &c &c*, first published 1852, Sydney, 1981. See also Henry Reynolds, ' "That Hated Stain": The Aftermath of Transportation in Tasmania', *Historical Studies: Australia and New Zealand*, Vol.14, No.53, October 1969, pp.31; P.A. Howell, 'The Irish Exile', *THRAPP*, Vol.26, 1979, pp.115-131.

This second part of this thesis, then, is a prosopographical study which attempts to recover as much as possible of the identity and individual experience of the deliberate arsonists, and, by doing so, consolidate a more detailed picture of the group as a whole.¹² For most historians, a convict's life is a life under sentence.¹³ This may be partly because sources for the post-sentence convict life are complex and often difficult to use, especially when no ship of arrival is attached to the emancipist's name. This is particularly true of those women who married and changed their surname.¹⁴ Certainty is often elusive, and inevitably, assumptions dictate conclusions more often than is desirable. Contemporary record-keepers confused convict and emancipist alike,¹⁵ and a distant perspective often exacerbates the confusion. For the most part, records are limited to civil registration and church records with some additional information gleaned from court records, police records and newspaper reports. Nevertheless, it is possible to track the lives of a number of the women and

¹² I have followed Charlotte Macdonald's interpretation of prosopography as 'the study and description of a person's appearance, personality, social and family connections and career': see Charlotte Macdonald, 'Descendant Informants and Popular Memory', *New Zealand Cultural Studies Working Group Journal*, No.8, 1984, p.5.

¹³ For exceptions, see Kay Daniels, *Convict Women*, St. Leonards, 1998, pp.214-240; Susan E. Johnson, 'The Irish convict women of the *Phoebe*', *THRAPP*, Vol.45, No.1, March 1998, pp.44-50; David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, Annandale, NSW, 2002. For a smaller group study, see Dianne Snowden, "These Unfortunate Females": The Story of Five Women from County Carlow, Ireland', in *Our Heritage in History, Papers of the Sixth Australasian Congress on Genealogy and Heraldry*, Launceston, 1991, pp.332-352. See also Christine Woods, *The Last Ladies. Female Convicts on the Duchess of Northumberland, 1853*, Claremont, Tas., 2004, and Trudy Cowley, *A Drift of Derwent Ducks: A study of the female Irish convicts transported on the Australasia from Dublin to Hobart Town, 1849*, forthcoming.

¹⁴ For difficulties associated with tracing women in records, see Macdonald, 'Descendant Informants and Popular Memory', pp.13-15.

¹⁵ See, for example, AOT, CON 41/26 and CON 15/6 Honora McCarthy *Earl Grey* No.1114, whose records were confused with another woman of the same name who arrived on the *Australasia*. The women petitioned in an attempt to solve the confusion: NAI, GPO CRF 1854 Misc 2. See also AOT, CON 41/36 and CON 15/8 Mary Neill 2nd *Midlothian* 1853 No.227: her records are confused with those of Mary Neill 1st.

form some basic conclusions about their colonial experience. In tracing the lives of the deliberate arsonists, I have drawn on the knowledge and research of family historians and descendants. As Macdonald pointed out, '[m]uch of what can be found out about ordinary events in the lives of undistinguished people is known only within families'.¹⁶ It is important to note, however, that the type and quality of the material obtained from descendants and family historians varies; it has been subjected to the same tests of accuracy and authenticity as other documentary evidence.¹⁷

The deliberate arsonists did not arrive in a vacuum but brought with them a set of life experiences which partly determined the shape and pattern of their colonial existence. Information recorded at their time of arrival in Van Diemen's Land has been summarised and used to form a picture of the deliberate arsonists as a group. The majority were young, single, illiterate, unskilled, Roman Catholic and largely from rural areas.¹⁸ Part Two of this thesis goes beyond this statistical synopsis to reconstruct the stories of individual women across their lifetimes. As in the first part of the thesis, the term 'deliberate arsonists' is used to describe those women for whom there is either stated or circumstantial evidence that they deliberately

¹⁶ Charlotte Macdonald, *A Woman of Good Character. Single Women as Immigrant Settlers in Nineteenth-century New Zealand*, Wellington, 1990, pp.12-13. See also Macdonald, 'Descendant Informants and Popular Memory', pp.5-19.

¹⁷ For a discussion of family history as historical evidence, see Macdonald, 'Descendant Informants and Popular Memory', pp.6-9.

¹⁸ Most Irish convicts were tried in rural areas: see Williams, 'Irish Convicts in Tasmania', p.21. Only 18% of women and 15% of men were tried in urban areas. See also L.L. Robson, *The Convict Settlers of Australia*, Melbourne, 1965: Table 4 (N) p.186; Table 4 (d) p.178. See also Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Cambridge, 1996. The majority of Irish convicts transported to Tasmania during the famine came from Munster and Connaught, poorer provinces which suffered under small subsistence farming and a very low standard of living: Williams, 'Irish Convicts in Tasmania', p.22.

committed the crime in order to be transported. The wider group of female arsonists is referred to as Irish female arsonists.

This section begins by exploring five possible determinants of colonial experience: age, marital status on arrival, literacy, occupation and religion.

Age

A major pre-existing influence on the colonial experience of the deliberate arsonists was age. The majority of the deliberate arsonists were young women of child-bearing age and it is reasonable to assume that this was an influence in determining outcomes in Van Diemen's Land. The ages of the deliberate arsonists fit the general trend for convict women.¹⁹ In his study of Irish convicts, Williams calculated that the average age of Irish women transported for arson was twenty-two years; 18 per cent were under the age of twenty and 88 per cent were below thirty.²⁰ As indicated by Figure 26, this study, to some extent, confirms Williams' findings: the average age of the

¹⁹ Oxley, *Convict Maids*, p.256: Table A5. Oxley, from her examination of the indents of 6,758 female convicts to NSW, calculated that the majority of women – approximately 32% – were between 20 and 24. The next largest age grouping (20.7%) was 25 to 29 years, followed by the 15 to 19 years group (17%). Forty-two (0.6%) were under 14 and 227 (3.4%) were over 50. See also Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995, pp.120-121 esp. Chart 4.1 p.122. In her study of convict women transported to Van Diemen's Land to 1839, Reid calculated 2/3 of the women were less than 30 years old on arrival. A further 17% were aged between 30-39 years. The study also revealed that there were few women from either end of the age spectrum – only 13 were under 14 and 11 were over 60. The majority (77%) in Reid's study were aged between 15 and 35. The age groupings are similar to those for female migrants: Stephen Nicholas and Peter R. Shergold, 'Convicts as Migrants' in Stephen Nicholas (ed.), *Convict Workers. Reinterpreting Australia's Past*, Melbourne, 1988, p.49.

²⁰ John Williams, *Ordered to the Island. Irish Convicts and Van Diemen's Land*, Sydney, 1994, p.73.

deliberate arsonists was twenty-two.²¹ However, 95 per cent of the deliberate arsonists were under the age of thirty.

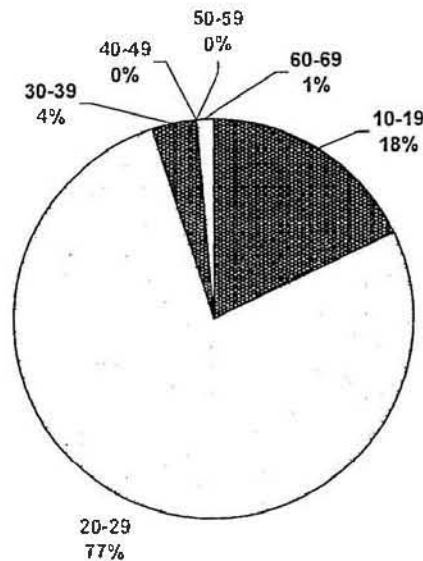


Figure 26: Age of deliberate arsonists calculated from conduct record [n=79].

As Figures 26 and 27 show, the majority of deliberate arsonists were in their twenties. The high number recorded as twenty, demonstrated in Figure 27, may indicate a rounding of figures. The youngest deliberate arsonist, Susan Chickley, was recorded as sixteen,²² and several others were in their teens. The oldest, Mary Nolan alias

²¹ The youngest Irish female arsonist was 13-year-old Mary Smith, who was tried with her parents and brothers: see AOT, CON 40/10 and CON 15/2 Mary Smith *Waverley* (2) 1842 No.681. The oldest was Rose Buchanan, 62, a widowed country servant tried in Cavan: see AOT, CON 41/33 and AOT, CON 15/7 Rose Buchanan *John William Dare* 1852 No.1154.

²² AOT, CON 41/24 and CON 15/6 Susan Chickley *Australasia* 1849 No.1007. There is some uncertainty about Susan Chickley's exact age. See Footnote 26.

Butler, was in her sixties.²³ Only two were in their thirties: Catharine Connors was thirty-five when she arrived and Mary Dunne was thirty-eight.²⁴ None were in their forties or fifties.²⁵

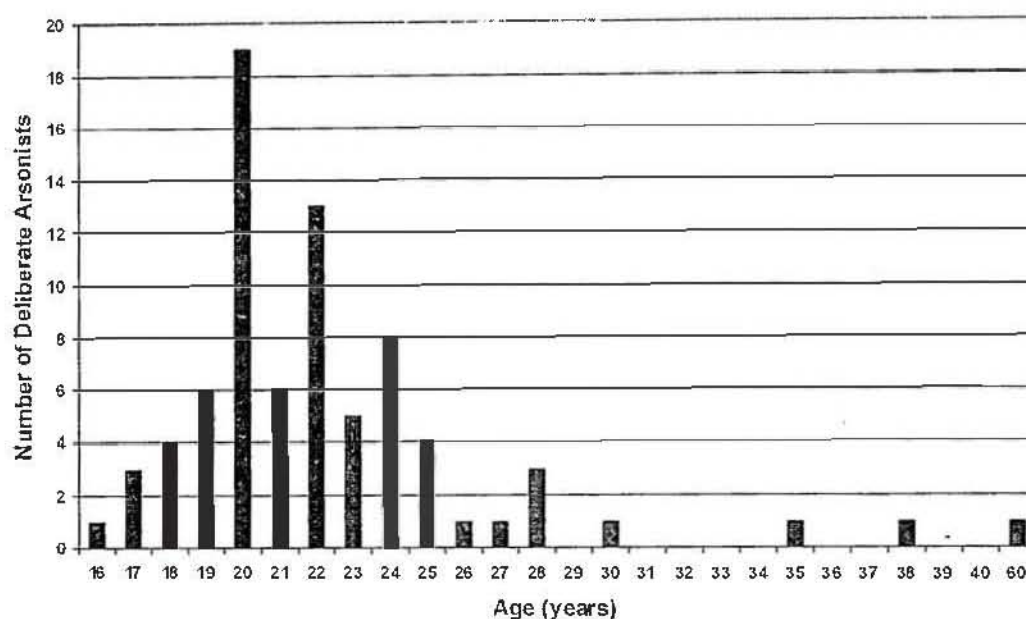


Figure 27: Age of deliberate arsonists calculated from conduct record [n=79].

For some of the women, their age was uncertain. In the dislocation in Ireland caused by poverty and famine, it is possible that many of the women did not know exactly how old they were. Susan Chickley was recorded as sixteen on her convict records.²⁶ However, in April 1850, shortly after her arrival in Van Diemen's Land, she was

²³ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. She admitted to deliberately committing arson because she wanted to join her transported daughter. See also AOT, CON 41/26 Margaret Butler *Earl Grey* 1850 No.1048.

²⁴ AOT, CON 41/30 and CON 15/7 Mary Dunne *Blackfriar* 1851 No.762; AOT, CON 41/20 and CON 15/5 Catherine Connors *Lord Auckland* (3) 1849 No.934.

²⁵ Overall, none of the Irish female arsonists were in their 50s; 4 were in their 40s.

²⁶ AOT, CON 41/24 and CON 15/6 Susan Chickley *Australasia* 1849 No.1007. However, see AOT, ADM 101/6 (Reel 3189) Surgeon's Journal of Her Majesty's Female Convict Ship *Australasia* 21 June 1849 - 4 October 1849, where her age was recorded as 21.

admitted to the New Norfolk Asylum for the Insane. The record of interview, conducted some days after her admission, indicates a degree of uncertainty about her exact age:

An Irish girl. Single. Can neither read nor write. Was never at school. Does not know her age. An orphan. Never a novice nor did she go to Church.²⁷

She may not have known her age in 1850, but her recorded age remained roughly consistent in Van Diemen's Land. In 1852, when she married, her age was recorded as twenty, suggesting that her year of birth was about 1832.²⁸ When she married for a second time, in 1865, her age was recorded as thirty-one and when she died in 1908, it was seventy-six.²⁹

In many cases, there were significant discrepancies between the age recorded in the convict records and that noted in the Irish Transportation Registers. In some examples, this can perhaps be simply explained by a birthday falling between departure and arrival. However, in other instances, the age in Ireland was greater than the age on arrival. Two possible explanations for these discrepancies are, firstly, that the woman did not know exactly how old she was, and secondly, that the woman or recording officer lied about the woman's age. For the second to happen, there must have been some perceived advantage to lowering the age. In other cases,

²⁷ AOT, HSD 246/8 Folio 139.

²⁸ AOT, RGD 37/11 1852 Brighton No.34: Chirkley/Fairley (22 May 1852).

²⁹ AOT, RGD 37/22 1863 Oatlands No.607: Fareley/Merrick (25 May 1863); AOT, RGD 27/1 1908 Oatlands No.329: Susan Merrick (6 June 1908).

administrative bungling appears to have been responsible for age discrepancies between records.³⁰ The rounding-off factor, too, may have been significant.

It is impossible to say how accurate were the recorded ages of the convict women. No proof of age was required. Certainly, inconsistency was common, and, in some cases, the recorded ages appear to have been dictated by convenience and circumstance. Nevertheless, from the evidence available, it is clear that the majority of the deliberate arsonists were in their twenties, of child-bearing and marriageable age.

Several historians have considered explanations for the relatively young age of female convicts. Some have suggested that crime was largely committed by the young, although it was perhaps the young who were caught.³¹ Others have suggested that government policy imposed an upper age limit.³² Reid argued that this was an attempt to provide 'colonial labour at its optimum productive and reproductive age'.³³ This argument is strengthened by evidence that governments consciously encouraged young settlers for whom they did not have to bear the costs of rearing and who were

³⁰ AOT, CON 41/26 and CON 15/6 Mary Ryan 1st *Earl Grey* 1850 No.528; *Irish Transportation Registers* TR9 p.70. According to her colonial convict records, Mary Ryan 1st was either 35 (conduct record) or 55 (indent); the *Irish Transportation Registers* record her age as 24.

³¹ J.M. Beattie, 'The criminality of women in eighteenth-century England', *Journal of Social History*, Vol.8, No.4, 1975, p.107.

³² This was certainly the case during the early period of transportation. In 1812, the *Report of Select Committee on Transportation*, noted that the government policy for women convicts was 'to send, without any exceptions, all females whose state of health will admit it, and whose age does not exceed forty-five years'. See *BPP, Report of Select Committee on Transportation*, Vol. II, 1812, pp.581-582. See also David Meredith, 'Full Circle? Contemporary Views on Transportation', in Nicholas (ed.), *Convict Workers*, p.14: all those sentenced to life and 14 years who met age and health requirements were transported.

³³ Reid, 'Work, Sexuality and Resistance', p.123.

entering the labour force at the beginning of their most productive years. The very young and the elderly (those over sixty) posed difficulties for colonial governments in terms of welfare provision.³⁴ Whether the relatively young age of the deliberate arsonists was the product of policy or circumstance, it was a major determinant of their colonial life experience.

Marital status on arrival

A second pre-existing influence on the colonial experience of the deliberate arsonists was marital status on arrival. As indicated in Figure 28, the majority of the deliberate

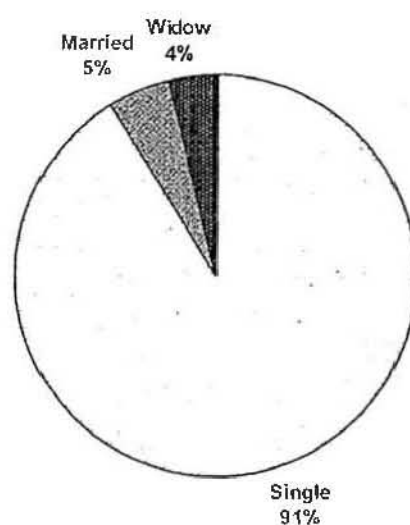


Figure 28: Marital status of deliberate arsonists on arrival [n=79].

³⁴ Reid, 'Work, Sexuality and Resistance', pp.122-123.

arsonists – 95 per cent – were single or widowed when they arrived in Van Diemen's Land.³⁵ This figure is considerably higher than the trend for convict women generally.³⁶

The majority of arsonists had at least one colonial marriage, and others formed common-law or *de facto* marriages. Related to the marital status of the arsonists was the gender imbalance in colonial Van Diemen's Land: as late as 1847, women accounted for only 32 per cent of Tasmania's population.³⁷ Marriage is explored more fully in Chapter Four.

Literacy

A third pre-existing influence on the colonial experience of the deliberate arsonists was literacy. As depicted in Figure 29, 65 per cent of the women, for whom information was recorded, could neither read nor write.³⁸

³⁵ See also Williams, *Ordered to the Island*, p.72, who calculated that 92% of Irish female arsonists were single or widowed. He stated that this was the second highest proportion (by crime) of unmarried females of all Irish convict women transported to Van Diemen's Land.

³⁶ H.S. Payne, 'A Statistical Study of Female Convicts in Tasmania, 1843-1853,' *THRAPP*, June 1961, Vol.9, No.2, p.59: 63.5% were single; 23.6% were married; 12.8% were widowed. Oxley, *Convict Maids*, p.125: 62% of all convict women were single; 14% were widowed. See also Reid, 'Work, Sexuality and Resistance', p.50: information on marital status was entered for 88% of the women; of these, 71% were unmarried or widowed.

³⁷ *Statistics of Tasmania* 1847.

³⁸ For a summary of literature relating to 19th century literacy levels, generally, see B.M. Penglase, 'An Enquiry into Literacy in Early Nineteenth Century New South Wales', *The Push from the Bush: A Bulletin of Early Social History*, No.16, October 1983, pp.39-60. Literacy skills were recorded on convict indentants from 1826: Penglase, 'Literacy', p.42.

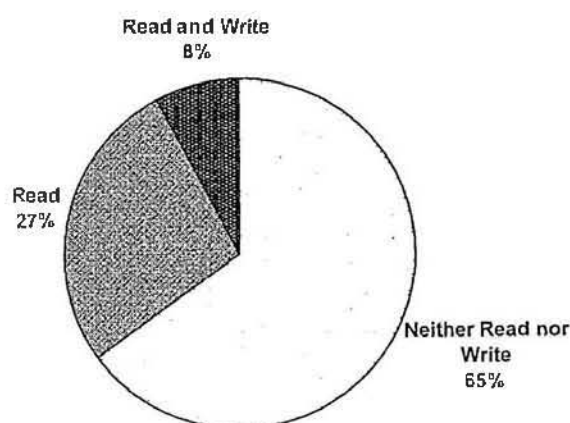


Figure 29: Literacy level of deliberate arsonists on arrival [n=77].

In 1850, at Clonmel Assizes, the Hon. Justice Ball commented to the Grand Jury that it was 'a matter of serious consideration and attention that of 273 persons for trial only thirty-two can read or write, or about one seventh of the entire number'.³⁹ This is consistent with Williams' assessment that the Irish convicts overall had a low level of literacy, and that this was particularly true of the women tried in Ireland.⁴⁰ Illiteracy was particularly evident in rural areas, where, despite the introduction of a

³⁹ *Freeman's Journal* 12 March 1850, p.1 col.6. From 1835, the British Home Office published annual statistical reports on the literacy levels of prisoners committed to trial: see Penglase, 'Literacy', p.44.

⁴⁰ Williams, *Ordered to the Island*, p.15: only 8% of women were literate compared with 43% of men; 29% of women and 24% of men could read only; and 63% of women and 33% of men could neither read nor write. See also Oxley *Convict Maids*, pp.115, 235: Oxley concluded that, by the standards of the time, the women were literate and numerate: 64% of women, on arrival, were able to at least read. Only about 1/3 were functionally illiterate. There were, however, significant differences between the English and the Irish: 80% of women transported from England were literate compared with 48% of those transported from Ireland. See also Clark, 'Origins', p.314: illiteracy levels were surprisingly low. See also Oxley, *Convict Maids*, pp.142-144.

national system of education in 1831, few schools existed.⁴¹ The Famine had a severe impact on literacy and education generally.⁴² Langan-Egan noted, however, that informal education played a significant role.⁴³

Cormac Ó Gráda, in examining the relationship between height, nutrition and living standards, provided information about literacy levels from the Clonmel Prison Registers between 1845 and 1849.⁴⁴ He concluded that those committed to trial were not a class apart – they were as likely to be able to read and write as the rest of the local population. According to the 1841 Census in Ireland, 44 per cent of the people of Clonmel (or at least those of them aged five years or more) professed an ability to read and write, and another 17 per cent a rudimentary semi-literacy – that is, an ability to read only. In Clonmel's rural hinterland, the percentages of literate or semi-literate people were much lower. Ó Gráda's study is interesting for its conclusion that those prisoners who declared an ability to write were considerably taller than those who did not: 'The difference is striking, and applies both to men and to women ... The outcome is a reminder that in poor societies literacy is a very powerful proxy

⁴¹ Williams, 'Irish Convicts in Tasmania', p.22. See also Donald H. Akenson, *The Irish Education Experiment: The National System of Education in the Nineteenth Century*, London, 1970, p.376.

⁴² Maureen Langan-Egan, 'Women in Mayo, 1821-1851. A Historical Perspective', M.Ed. National University of Ireland, Galway, 1986, pp.94-99, 103, 106. Reasons for non-attendance at school included lack of food and clothing, seasonal help with agricultural work and helping with family income, and dread of fever during the Famine. Illiteracy was compounded by poor housing, poor health, unemployment, bad food and clothing, and bad eyesight caused by ophthalmia (endemic during the Famine).

⁴³ Langan-Egan, 'Women in Mayo', esp. Ch.12. She noted that bilingualism (English and Gaelic) was the norm rather than the exception in Mayo in the 1850s, particularly in the age group 15-20 years where bilingual speakers outnumbered Irish speakers by 5 to 1 for the county as a whole.

⁴⁴ Cormac Ó Gráda, 'The Heights of Clonmel Prisoners 1845-9: Some Dietary Considerations', *Irish Economic Social History*, Vol.18, 1991, pp.28-29. See also Stephen Nicholas and Peter R. Shergold, 'Convicts as Workers' in Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.78-82, for the height and productivity of convict workers.

for income: the cost of even elementary schooling, whether in fees or earnings foregone, bulks large'.⁴⁵ Given this, it is possible that the taller women who were more literate were better nourished and perhaps belonged to a higher socio-economic grouping.⁴⁶

As with information about age, data about literacy are sometimes conflicting. Mary Paid, for example, was recorded on her convict records as being able to read, but, according to colonial lower court records, she could neither read nor write.⁴⁷ The source of the information relating to convict literacy on conduct records and indents is not known, nor is it known whether it was corroborated in any way.⁴⁸ One of the difficulties in determining literacy levels arises from the intervention on the voyage of literacy tutoring.⁴⁹ This took place on board ship and, in the colony, on the *Anson*, the female probation station housed in a former hulk on the Derwent. In Van Diemen's Land, Eliza Guilfoyle was initially stationed on the *Anson*, and may have learned to read there: when she arrived in Hobart in 1849, she was recorded as illiterate but when she appeared in court in Hobart in 1850, she was able to read.⁵⁰ However, in 1852, in the same court, Eliza was recorded as not being able to read or

⁴⁵ Ó Gráda, 'The Heights of Clonmel Prisoners 1845-9' p.28.

⁴⁶ See Nicholas and Shergold, 'Convicts as Workers', pp.62-84, who noted that height is a proxy for standard of living. See also S. Nicholas and Peter R. Shergold, 'The Height of British Male Convict Children Transported to Australia, 1825-1840 Part I and Part II, *Australian Paediatric Journal*, Vol.18, 1982, pp.1-11.

⁴⁷ AOT, CON 41/20 and CON 15/5 Mary Paid *Lord Auckland* (3) 1849 No.391; AOT, LC 251/2 (30 January 1850).

⁴⁸ Penglase, 'Literacy', pp.43-44, 49.

⁴⁹ Oxley, *Convict Maids*, p.115.

⁵⁰ AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, LC 251/2 (25 November 1850).

write and this highlights the lack of certainty associated with convict records.⁵¹ It is not possible, however, to ascertain how many learnt literacy skills on their voyage.

The level of literacy appears to have made no significant difference to outcomes for the women who confessed to deliberately committing arson in order to be transported, except indirectly by determining their occupational or socio-economic level.

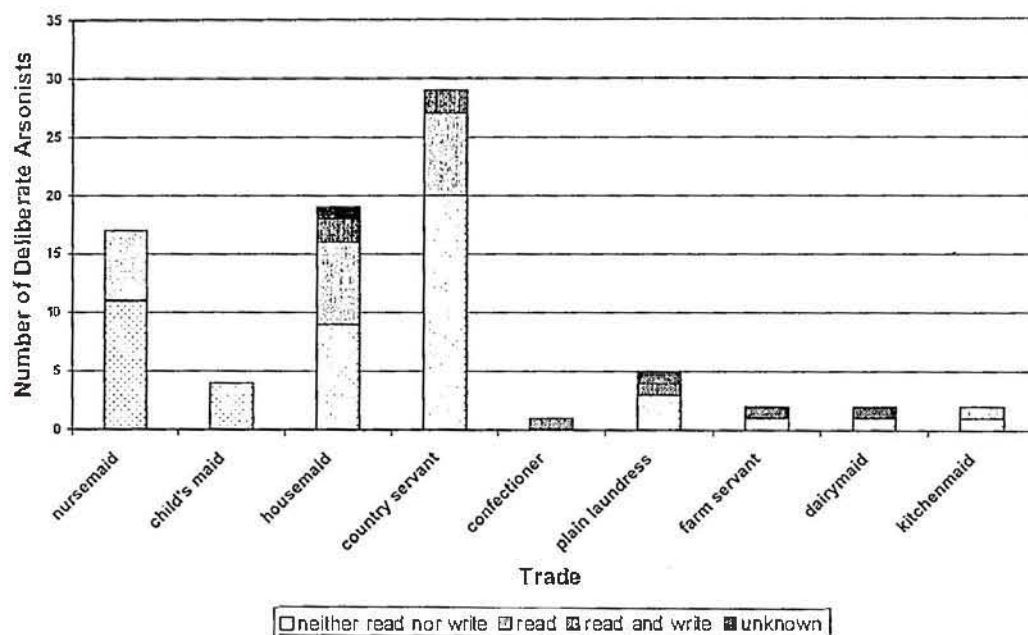


Figure 30: Literacy level and occupation of deliberate arsonists on arrival [n=79].

It is difficult to assess the impact of illiteracy on occupational level but it is true, as Williams stated, that 'The occupations and levels of literacy of the Irish convicts

⁵¹ AOT, LC 251/2 (12 April 1852).

reflected their rural origins'.⁵² According to Williams' figures, 75 per cent of all country servants transported from Ireland could not read or write.⁵³ As Figure 30 shows, this is consistent with the findings of this study: of the country (or farm) servants, approximately 70 per cent could not read or write.

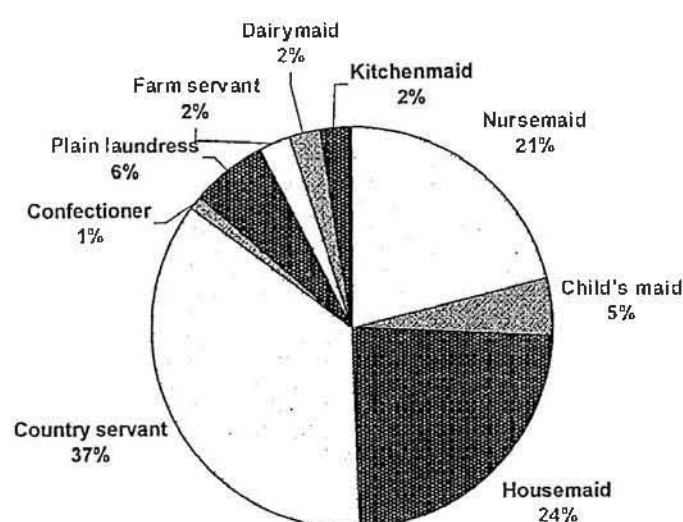


Figure 31: Occupation of deliberate arsonists on arrival [n=79].

As indicated by Figure 31, the deliberate arsonists were clearly within the occupational grouping of the unskilled labouring class.⁵⁴ Only one deliberate arsonist, confectioner Mary Nowlan, was recorded as having a trade.⁵⁵ Once the

⁵² Williams, 'Irish Convicts in Tasmania', p.21. See also Robson, *The Convict Settlers*, Table 5 (d), p.190; Oxley, *Convict Maids*, pp.136-138.

⁵³ Williams, *Ordered to the Island*, p.17. This was similar to Irish migrants generally: see Fitzpatrick, 'Irish Immigration to Australia', pp.53-54, who noted that most described themselves as plain 'labourers', women as 'servants', although 'most were probably without experience of hired as distinct from family employment in Ireland'.

⁵⁴ For the relationship between occupation and literacy, see Penglase, 'Literacy', p.55.

⁵⁵ AOT, CON 41/26 and CON 15/6 Mary Nowlan *Earl Grey* 1850 No.199.

deliberate arsonists were on the open labour market, their ability to make a living was dictated to by the prevailing economic conditions. Many of the women, consequently, were marginalised and impoverished. This is explored more fully in Chapters Six and Seven.

Religion

The fourth pre-existing influence on the colonial experience of the deliberate arsonists was religion. As depicted in Figure 32, the majority of women – 92 per cent – were recorded on their convict records as Roman Catholic. This is consistent with other studies of Irish convict women and Irish convicts generally.⁵⁶ Religion had an impact on colonial experience in two main ways: firstly, at a personal level – how the women practised religion – and secondly, in a social context.⁵⁷ However, it is extremely difficult to determine, at an individual level, how significant religion was as an influence on the colonial experience of the deliberate arsonists.

Little information about the way the women practised or perceived religion has been discovered. Baptism, marriage and burial records, however, reveal that some of the women changed their religion, perhaps due to expediency or to the religion of their husbands.

⁵⁶ Oxley, *Convict Maids*, p.143. Oxley, for example, concluded that 85% of women transported from Ireland were Roman Catholic, as were 77% of Irish convict emigrants (those transported from places other than Ireland). See also Williams, *Ordered to the Island*, p.14.

⁵⁷ On this issue, see Whitaker, 'The convict priests', p.37. See also W.T Southerwood, 'Bishop R.W. Willson's Work for the Insane in Tasmania', *THRAPP*, Vol.20, December 1973, No.4, pp.140-151. Williams, 'Irish Convicts in Tasmania', p.28: 'Discrimination against Catholic prisoners continued up until the 1840s. It was not until the colonial government realised the value of social control exercised by Catholic priests that they recommended free access to the prisons and an increase in their numbers. But social discrimination continued to exist'.

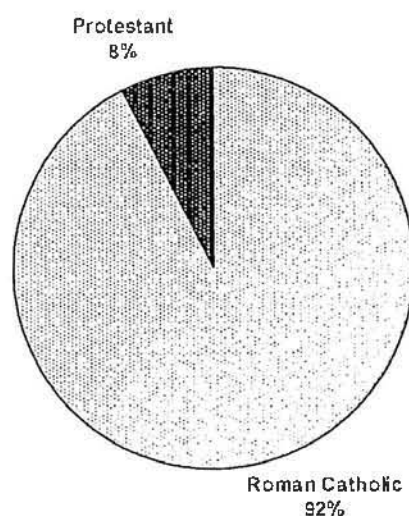


Figure 32: Religion of deliberate arsonists on arrival (n=79).

Six of the deliberate arsonists stated that they were Protestant.⁵⁸ Of the four for whom marriages have been located, all married a Protestant in a Protestant church.⁵⁹ Furthermore, most were consistently Protestant: Alice Julian married in the Church of England; her children belonged to the Church of England; and she was buried in

⁵⁸ AOT, CON 41/26 Margaret Leggitt *Earl Grey* 1850 No.466; AOT, CON 41/30 and CON 15/7 Ann Blake *Blackfriar* 1851 No.1106; AOT, CON 41/26 and CON 15/6 Mary Nowlan *Earl Grey* 1850 No.199; AOT, CON 41/26 Jane Williams *Earl Grey* 1850 No.855; AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443; AOT, CON 41/24 and CON 15/6 Bridget Scanlon *Australasia* 1849 No.892.

⁵⁹ AOT, RGD 37/10 1851 Hobart No.592: 'Nowland'/Patterson: Independent Chapel, Brisbane Street, Hobart; AOT, RGD 37/12 1853 Hobart No.374: Blake/Jones: St George's Church of England; AOT, RGD 37/13 1854 Hobart No.400: Leggett/Platt: St George's Church of England; AOT, RGD 37/14 1855 Hobart No.260: Julian/Walker: St George's Church of England.

the Church of England section of the Melbourne cemetery.⁶⁰ For two of the women, however, the pattern of their religion varied. Bridget Scanlon, a twenty-year-old country servant from County Waterford, stated that she was Protestant on arrival.⁶¹ However, in 1851, her illegitimate daughter, Margaret, born at the Female House of Correction, was baptised into the Roman Catholic Church.⁶² Bridget apparently later formed a relationship with George Cooper; some of their children were also baptised Roman Catholic.⁶³ Mary Nowlan was consistently recorded as Protestant from the time of her arrival until her death in 1867, when, inexplicably, she was buried in the Catholic Burial Ground, Sydney.⁶⁴

Half of the women who stated they were Roman Catholic on arrival later married in Protestant churches and then reverted to Roman Catholicism. Although Margaret Leary, for example, stated on arrival that she was Roman Catholic, she married in the Church of England.⁶⁵ However, her children and grandchildren appear to have been

⁶⁰ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443; AOT, RGD 37/14 1855 Hobart No.260: Julian/Walker, Melbourne General Cemetery: CE, Section W, Grave No.286; Gordon Roberts, *personal communication*, 15 July 1998.

⁶¹ AOT, CON 41/24 and CON 15/6 Bridget Scanlon *Australasia* 1849 No.892.

⁶² AOT, CON 41/24; RGD 33/4 1851 Hobart No.584: Margaret Scanlon; AOT, NS 1052/8 (1851) p.143: St. Joseph's Roman Catholic Church, Hobart, Baptism Register. Her sponsor was Honora McHenry, who also arrived on the *Australasia*.

⁶³ Chris Beasley, *personal communication*, 17 April 2004; Cowley, *A Drift of Derwent Ducks*.

⁶⁴ NSW Death Certificate 1867/002254: Mary Ann Patterson; David Woodward, *personal communication*, April 2004.

⁶⁵ AOT, CON 41/19 Margaret Leary *Kinnear* (2) 1848 No.405; AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls. She also appears to have been a witness, with her husband James Nicholls, to a marriage in Holy Trinity Church of England; AOT, RGD 37/14 1855 No.396: Daley/Winterbottom. AOT, NS 1052/8 p.233: St. Joseph's Roman Catholic Church, Hobart, Baptism Register.

baptised Roman Catholic, and Margaret, James and a grandson were buried together in the Roman Catholic section of the Cornelian Bay cemetery in Hobart.⁶⁶

It is difficult to determine how important religion was in the lives of the women. Michael Hogan suggested nineteenth-century Australia typified 'an irreligious age',⁶⁷ adding that, because of the association of the established church with 'the coercive powers of the state, it is hardly surprising that most convicts and emancipists were unenthusiastic about religion and religious people – especially clergymen'.⁶⁸ Allan Grocott concurred, stating that 'convicts and ex-convicts were generally irreligious, profane and anti-clerical'.⁶⁹ This was not necessarily a colonial trait: David Miller argued that at least half the pre-Famine and Famine emigrants were not regular churchgoers in Ireland.⁷⁰ In her study of Australian ways of death, Jalland made an important distinction between faith and attendance at religious services or census information.⁷¹ She noted that many immigrants were indifferent to religion and even actively resistant to organised worship.⁷² This is supported by Patrick O'Farrell's

⁶⁶ SRCT, Record ID12832, RC, Section D, No.74: Margaret Nichols; SRCT, Record ID 12936, RC, Section D, No.74: James Nichols; AOT, NS 1052/49 Roman Catholic Burial Register: Martin Nichols.

⁶⁷ Michael Hogan, *The Sectarian Strand. Religion in Australian History*, Ringwood, 1987, p.19.

⁶⁸ Hogan, *The Sectarian Strand*, pp.19-20. See also Anne-Maree Whitaker, 'The convict priests: Irish Catholicism in early colonial New South Wales' in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 5. Religion and Identity*, London and New York, 1996, p.26.

⁶⁹ Allan M. Grocott, *Convicts, Clergymen and Churches. Attitudes of Convicts and Ex-convicts Towards the Churches and Clergy in New South Wales from 1788 to 1851*, Sydney, 1980, p.281.

⁷⁰ D.W. Miller, 'Irish Catholicism and the Great Famine', *Journal of Social History*, Vol.IX, 1975, pp.81-98. See also J.J. Lee, 'Women and the Church since the Famine' in Margaret Mac Curtain and Donncha Ó Corráin, *Women in Irish Society. The Historical Dimension*, Westport, Connecticut, 1979, pp.37-45 and S.J. Connolly, 'Catholicism and Social Discipline in Pre-Famine Ireland', *Irish Economic and Social History*, Vol.IV, 1997, pp.74-76.

⁷¹ Pat Jalland, *Australian Ways of Death. A Social and Cultural History 1840-1918*, South Melbourne, 2002, p.33.

⁷² Jalland, *Australian Ways of Death*, p.34.

conclusion from his study of shipboard journals and letters.⁷³ Fitzpatrick stated that in nineteenth-century Australia, 'many nominal Catholics continued to avoid Church attendance', but added that this gradually changed, encouraged by the proliferation of guilds and sodalities, temperance bodies and benefit societies.⁷⁴ Much of the information about church attendance, however, is conjecture, as available data is limited.

Similarly, little information is available about the attitude of the arsonists, and convict women generally, to religion.⁷⁵ Occasionally, glimpses can be gleaned: Roman Catholic Ann Daley, about six weeks after her arrival in Van Diemen's Land, was given seven days in the cells for refusing to attend the teaching of the Roman Catholic Catechism while she was stationed on the *Anson*.⁷⁶ Margaret Stafford was punished for 'having a leaf of the New Testament torn for improper purpose'.⁷⁷ Susan Chickley, although recorded as a Roman Catholic, stated that she had never been to church.⁷⁸ Ellen Wiseman, according to family lore, met her husband when

⁷³ Patrick O'Farrell, *Letters from Irish Australia 1825-1929*, Sydney & Belfast, 1984, pp.2-3, 19-31.

⁷⁴ Fitzpatrick, 'Irish Immigration to Australia', pp.59-60. For changes in Irish Catholicism in the 19th century, from a peasant religion based on a network of festal practices to a Mass-centred form of worship with an enhanced clerical role, see Paul O'Leary, 'From the cradle to the grave: popular Catholicism among the Irish in Wales' in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 5. Religion and Identity*, London and New York, 1996, pp.183-195.

⁷⁵ AOT, CSO 22/50, Report of a Board Appointed to Report on Prison Discipline as connected with Female Convicts 1841, p.342 addresses, in part, misconduct during Divine Service at the Cascades Female Factory.

⁷⁶ AOT, CON 41/22 Ann Daley *Australasia* 1849 No.677.

⁷⁷ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

⁷⁸ AOT, HSD 246/8/Folio 139.

she was returning from a religious mission.⁷⁹ For most of the women, however, there is little information about their practice of religion or their attitude towards it, and it is as difficult to say how important it was in their lives as it was to determining opportunities and outcomes in Van Diemen's Land.

An examination of marriage, baptism and burial practices shows that many of the women changed their religion, and this may be an indication of its lack of significance in their lives. It may also indicate that they were not attached to any particular denomination. This highlights Jalland's distinction between faith and religious practice. As will be shown in Chapter Four, not all of the women who stated on arrival that they were Roman Catholic married according to the rites of the Roman Catholic Church.

Apart from the place of religion in the personal lives of the arsonists, religion was also significant in a social context.⁸⁰ Williams asserted that the religion of the Irish convicts 'set them apart'; it was an important factor in a Protestant-dominated colony.⁸¹ Nearly 90 per cent of Irish convicts were Catholics and they 'formed a distinct religious minority among other prisoners'.⁸² This was significant in view of

⁷⁹ Jennifer Williams, 'Ellen Mary Wiseman and Reuben Cousins', in Bronwyn Quint (ed.) for the Descendants of Convicts' Group Inc., *Arrows of Hope. Selected Convicts Stories. Volume. 2*, Melbourne 2002, p.265.

⁸⁰ For religion as a form of social control, see Hilary Rumley, 'A Missionary's Moral Burden: A Perspective on the Problems of Women in Fremantle in the Early 1840s', *The Push from the Bush: A Bulletin of Early Social History*, No.16, October 1983, pp.33-38.

⁸¹ Williams, 'Irish Convicts in Tasmania', p.22.

⁸² Williams, 'Irish Convicts in Tasmania', p.22. See also Hogan, *The Sectarian Strand*.

contemporary anti-Catholic and anti-Irish sentiment.⁸³ The political and religious tradition of Tasmania was founded on Protestantism; the British national state was founded on Protestantism and anti-Catholicism. Mary J. Hickman, writing of the Irish in England, commented: 'It is important to remember the extent to which Roman Catholics were viewed as a reviled minority in nineteenth-century British society. To Protestants, Catholicism represented a body of superstitious beliefs, idolatrous worship and vile practices'.⁸⁴ They were, she added, imagined to be politically subversive.⁸⁵ It is difficult to determine the extent and effect of this ideology in nineteenth-century Tasmania,⁸⁶ but there are occasional glimpses in the records of the deliberate arsonists of how being Roman Catholic had an impact on colonial experience. Many of the applications for assistance to the Orphan School suggest that the authorities involved often went to great lengths to ascertain an accurate record of the child's religion.⁸⁷ Religious affiliation could sometimes determine access to charitable assistance, and this may have influenced some women to change their religion, although this remains problematic. In the 1860s, Anastasia Leathley, daughter of arsonist Catherine (Mannon) Leathley, was denied assistance because she was Roman Catholic. Both her parents were in prison, and Anastasia was hospitalised when the licensed victualler in whose care she had been left had

⁸³ AOT, GO 33/78 Denison to Pakington, 1 April 1853; AOT, GO 33/78 Denison to Newcastle, 30 April 1853. For anti-Irish and anti-Catholic feeling in Victoria in the 1860s, see Pawsey, 'Aliens', pp.52-57.

⁸⁴ Mary J. Hickman, 'Incorporating and denationalizing the Irish in England: the role of the Catholic Church' in O'Sullivan (ed.), *Religion and Identity*, p.197.

⁸⁵ Hickman, 'The Irish in England', p.197.

⁸⁶ Violent anti-Catholicism emerged publicly in 1879 during the anti-Chiniquy riots; see E.M. Dollery, 'The Chiniquy riots, Hobart', *THEAPP*, Vol.9, No.4, March 1962, pp.118-144.

⁸⁷ AOT, S'WD 26/1-9 *passim*.

'beaten her most cruelly'. Assistance in the form of admission to the Queen's Asylum for Destitute Children (the Orphan School) was refused and it was suggested that it might be possible 'through the agency of the Committee' to place the girl in 'some respectable service'.⁸⁸ Mrs Salier, Secretary of the Female Reformatory Committee,⁸⁹ replied that:

The Committee of the Female Reformatory regret that they will not be able to admit Anastasia Leathley, owing to her having been baptized in the Roman Catholic Church, this Institution being for Protestants only.⁹⁰

While this is only one example, it is true that contemporary children's institutions had a strong Protestant foundation, even though they were not church-sponsored, so much so that the Catholic Church eventually established St Joseph's Industrial School and Orphanage in 1879 as a counterbalance.⁹¹ Overall, however, it remains difficult to determine the extent of the manifestation of anti-Catholic ideology in colonial Van Diemen's Land and the impact this had on the lives of the deliberate arsonists.⁹²

⁸⁸ AOT, SWD 26/9 7 February 1867: Leathley.

⁸⁹ See Joan C. Brown, *Poverty is not a Crime: Social Services in Tasmania, 1803-1900*, Hobart, 1972, p. 137, for reformatories and industrial schools.

⁹⁰ AOT, SWD 26/9 8 February 1867: Leathley. A note from the Hon. Richard Dry, Colonial Secretary, gave the Governor's approval for the girl to be admitted to the Queen's Asylum, 'with the view to her being immediately apprenticed' (9 February 1867).

⁹¹ Brown, *Poverty is not a Crime*, p. 93.

⁹² See also R.P. Davis, *A Guide to the State Aid Tangle in Tasmania*, Hobart, 1974; W.T. Southerwood, *Catholics in British Colonies. Planting a Faith where No Sun Sets – Islands and Dependencies of Britain till 1900*, London, 1998; W.T. Southerwood, *The Convict's Friend: A Life of Bishop Robert William Wilson: Apostle to Prisoners and the Insane in the Australian Colonies*, George Town, 1989 and W.T. Southerwood, *Planting a Faith. Hobart's Catholic Story in Word and Picture*, Hobart, 1968.

Irishness

In many instances, the terms Irish and Catholic were effectively synonymous.⁹³ Certainly, this is true of Irish convicts, who are nearly always assumed to be Roman Catholic. The stereotyping of the Irish as a group generally has been well-documented: as Akenson pointed out, anti-Irish prejudice embraced all Irish; in the popular mind, 'Irishness' equated with 'Catholicism'.⁹⁴ Fitzpatrick summarised the argument:

to alien eyes and ears it often mattered little whether an Irish emigrant was from Dublin or Mayo, a Protestant or a Catholic, a labourer or an artisan, a parent or on the loose. To their great indignation, the Irish overseas tended to be lumped together as ignorant, dirty and primitive Paddies or Biddies.⁹⁵

The reasons for this synonymy are complex and the subject of much historiographical discussion.⁹⁶ Generally speaking, however, four main factors have been consistently identified as determinants of anti-Irish prejudice: poverty, nationalism, ethnicity (including language) and Catholicism.⁹⁷

⁹³ Roger Swift, 'The historiography of the Irish in nineteenth century Britain' in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 2. The Irish in the New Communities*, London, 1992, p.70.

⁹⁴ Donald Harman Akenson, *The Irish Diaspora: A Primer*, Toronto, 1993, p.64. See also Pauline Hamilton, "'No Irish Need Apply": Prejudice as a Factor in the Development of Immigration Policy in New South Wales and Victoria, 1840-1870', unpublished Ph.D. Thesis, University of New South Wales, 1979, esp. Chapter One.

⁹⁵ David Fitzpatrick, *Irish Emigration, 1801-1921*, Dublin, 1984, p.13. See also Fitzpatrick, 'Irish Immigration to Australia', p.61 and Patrick O'Farrell, *The Irish in Australia. 1788 to the Present*, 3rd edition, Sydney, 2000.

⁹⁶ For definitions and derivations of 'Irishness', see Patrick O'Farrell, 'Varieties of New Zealand Irishness. A Meditation' in Lyndon Fraser, (ed.), *A Distant Shore. Irish Migration & New Zealand Settlement*, Dunedin, 2000, pp.25-35. For the possibility of the existence of an Irish ethnic identity not tied to religion, see Gerard Connolly in Roger Swift and Sheridan Gilley, *The Irish in the Victorian City*, London 1985.

⁹⁷ Swift, 'The historiography of the Irish', pp.63-72. See also Fitzpatrick, 'A curious middle place? The Irish in Britain, 1871-1921' in Swift and Gilley, *The Irish in Britain*, pp.19-70.

Because the Irish formed a distinctive social group, it is not surprising then to find small Irish communities, often named Irish Town, established in colonial Van Diemen's Land.⁹⁸ Some of the deliberate arsonists settled in areas such as the Huon and Westbury – a 'fortress of Irishness even stronger than the Huon'⁹⁹ – where there was some measure of protection.¹⁰⁰ Little work has been done on the development and maintenance of close, non-familial convict networks, although this has been a focus of immigrant studies.¹⁰¹ Rushen, for example, analysed witnesses to marriage for evidence of networks, concluding that 15 per cent of the emigrant women in her study were known to have witnessed each other's marriage, and maintained some form of contact.¹⁰² Evidence from a number of studies of immigrant women suggests that Irish women, in particular, continued contact and developed strong non-familial groupings.¹⁰³ Other historians, including Reid, Fitzpatrick, and O'Farrell, have

⁹⁸ Roe, 'The Ubiquity of Irishness', pp.84-92; Williams, 'Irish Convicts in Tasmania', p.29: the Tasmanian Irish community was strong enough to support visiting Irish delegations in the 1880s and 1890s. See also Hickman, 'The Irish in England', p.213 citing Robert Darwen, who identified the existence of an Irish Catholic subculture, a 'folk religion', that endured while the Irish felt culturally alienated from the English.

⁹⁹ Roe, 'The Ubiquity of Irishness', p.86.

¹⁰⁰ Roe, 'The Ubiquity of Irishness', p.84. See also Michael Roe, *Quest for Authority*, Melbourne, 1965, p.119. Roe noted that, in colonial Van Diemen's Land, the Irish-Catholic community was quick to rebut any slur on its members.

¹⁰¹ Recent work done by Trudy Cowley on the women transported on the *Australasia* shows extensive networks existed: 14% of the women were definitely witnesses at shipmates marriages, and another 4% were possible witnesses, while 8% of their husbands were witnesses at their wives' ship-mates marriages. At least 1 woman and her husband were witnesses at a marriage in 1870, 21 years after the ship arrived. The women were also sponsors at the baptism of their shipmates' children: of those baptisms where sponsors were recorded (that is, Roman Catholic), 8% of the sponsors were definitely women from the *Australasia*, and another 4% were likely. Sponsors also included 1% of ship-mates' husbands. See Cowley, *A Drift of Derwent Ducks*.

¹⁰² Rushen, 'Free, single and female', p.215.

¹⁰³ Rushen, 'Free, single and female', p.216: in her study, 53% of Irishwomen witnessed each other's marriages compared with 34% of Englishwomen.

commented on the development of strong associations among Irish immigrants.¹⁰⁴ At least some of the deliberate arsonists witnessed each other's marriage. In some cases, women tried together were marriage witnesses: in 1854, when Alice Griffith married William Ryan, one of the witnesses was Alice Tobin, who had been tried and transported with her.¹⁰⁵ When Catherine Hayes married Patrick Hanley in 1854, a witness was Joanna Sullivan, possibly a shipmate of Catherine.¹⁰⁶ Others appear to have maintained contact with their shipboard companions and those transported from the same county.¹⁰⁷

Even so, assimilation into the wider community was common: 'Irishness in Australia was seldom something worth flaunting; more often, it made sense to keep quiet'.¹⁰⁸ In Tasmania, the inextricable link with convictism contributed to cultural amnesia, or what Akenson referred to as 'collective memory loss'.¹⁰⁹ Again, limited data hinders consideration of how the women identified themselves and how they were identified, in an ethnic sense. There is even less information on the place of language in

¹⁰⁴ Richard Reid, 'Green Threads of Kinship! Aspects of Irish chain-migration to New South Wales, 1820-1886', *Familia*, Ulster Genealogical Review, Vol.2, No.3, 1987, pp.47-56; David Fitzpatrick, 'Irish Immigrants in Australia: Patterns of Settlement and Paths of Mobility', *Australia 1888*, Bulletin No.2, August 1979; O'Farrell, *The Irish in Australia*.

¹⁰⁵ AOT, RGD 37/13 1854 Hobart No.660: Griffiths/Ryan.

¹⁰⁶ AOT, RGD 37/14 1855 Hobart No.364: Hayes/Hanley. There was a Johanna Sullivan on the *Martin Luther* with Catherine Hayes.

¹⁰⁷ AOT, RGD 37/14 1855 Hobart No.396 Daly/Winterbottom; AOT, CON 41/30 and CON 15/7 Honora Daly *Blackfriar* 1851 No.752; AOT, CON 41/19 and CON 15/5 Margaret Leary *Kinnear* (2) 1848 No.405; AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls.

¹⁰⁸ Fitzpatrick, 'Irish Immigration to Australia', p.61.

¹⁰⁹ Donald Harman Akenson, *Half the World from Home: Perspectives on the Irish in New Zealand, 1860-1950*, Wellington, 1990, p.85.

identity.¹¹⁰ Similarly, there is very little information about such areas as the participation of the women in contemporary politics, particularly at the local level, and how much this was influenced by their Irish or Irish-Catholic background.¹¹¹

Changing demographics also influenced the social context in which the deliberate arsonists lived. By 1882, nearly 75 per cent of Tasmania's population was Australian-born; only 6 per cent declared that they were Irish-born.¹¹² The Victorian gold rush, followed by rushes to New South Wales and New Zealand in the early 1860s, also had an impact on the colonial outcomes for the deliberate arsonists.

For the deliberate arsonists, the opportunity to improve their conditions was the catalyst for committing arson. In colonial Tasmania, the lure of the gold rush, firstly to Victoria in mid-1851, and later NSW, Western Australia and New Zealand, provided the promise of greater prospects.¹¹³ Some of the deliberate arsonists moved interstate, possibly tempted by the gold rush. Ellen (Ryan) Dwyer, for example, died

¹¹⁰ For the effect of 19th-century migration on Gaelic, see Karen P. Corrigan, '“I gcuntas Dé múin Béarla do na leanbháin”: eisimirce agus an Ghaeilge sa naoú aois déag' (‘“For God's sake, teach the children English”: emigration and the Irish language in the nineteenth century’) in Patrick O'Sullivan (ed.), *Irish in New Communities*, London, 1992, pp.143-161. Some of the Irish convicts were recorded as not being able to speak English: 21-year-old farm labourer, Maurice Neal, tried in Tipperary in 1846 for setting fire to his brother's house, could not read and write. His convict conduct record noted: 'Cannot speak English. Speaks Irish': see AOT, CON 33/83 Maurice Neal *Tory* 1847 No.19741. None of the records of the women transported for arson, however, were annotated in this way.

¹¹¹ For a discussion of the need for this information in relation to the nationalism strand of the debate, see Swift, 'The historiography of the Irish', pp.68-69. See also Roe, 'The Ubiquity of Irishness', pp.84-85; Roe, *Quest for Authority*, p.119.

¹¹² *Statistics of Tasmania* 1882.

¹¹³ Scott Bennett, 'The Impact of the Victorian Goldrush on the Economy of Van Diemen's Land', *A.N.U. Historical Journal*, October 1964, Vol.1, No.1, pp.69-84.

in 1888 in the Victorian goldfields.¹¹⁴ Bridget (Delaney) Lowry's husband was a miner in Victoria in 1860, when their son was born.¹¹⁵

The gold rush also had an impact on the Tasmanian economy and demography. Scott Bennett argued that the Victorian goldrush had a significant influence on the economy of Van Diemen's Land, crippling what had been a solid and prosperous agricultural economy.¹¹⁶ Many adult males left the colony: Morrell stated that in the first six months of 1852 alone, more than ten thousand – the majority of whom were male and ex-convict – rushed across Bass Strait.¹¹⁷ The goldrush may have provided an escape for a handful of the deliberate arsonists but it also opened up opportunities in Van Diemen's Land because of the reduced population. The shortage of labour increased wages.¹¹⁸ The goldrush coincided with a poor agricultural season, resulting in a dramatic rise in the cost of living, as prices rose for staples such bread, flour, rice, tea, sugar, coffee, and mutton.¹¹⁹ It precipitated an economic depression lasting twenty years, until the mining industry took off in the 1870s and capital returned.¹²⁰ Some of the families of the deliberate arsonists were involved in mining, as well as agriculture and the timber industry. The latter was one industry which benefited from

¹¹⁴ Victorian Death Certificate 1888 No.7986: Ellen Dwyer. She was living in Victoria by 1871, when a son was born: Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

¹¹⁵ Victorian Birth Certificate 1860 No.13261: James Martin Lowry. He was born at Mt Blackwood.

¹¹⁶ Scott Bennett, 'The Impact of the Victorian Goldrush on the Economy of Van Diemen's Land', *A.N.U. Historical Journal*, October 1964, Vol.1, No.1, pp.69-84.

¹¹⁷ See Hugh M. Hull *A Statistical Account of Van Diemen's Land or Tasmania*, Hobart Town 1856; W.P. Morrell, *The Gold Rushes*, London, 1940, p.214.

¹¹⁸ Bennett, 'The Impact of the Victorian Goldrush' p.74. See also Richard Davis and Stefan Petrow (eds.), *Varieties of Vice-Regal Life by Sir William and Lady Denison*, Hobart, 2004, *passim*, for comments on the effects of the goldrush.

¹¹⁹ Bennett, 'The Impact of the Victorian Goldrush' pp.74-75.

¹²⁰ Bennett, 'The Impact of the Victorian Goldrush', p.75; Geoffrey Blainey, *The Rush that Never Ended*, Melbourne, 1963, p.212.

the gold rush: timber merchants were able to offer good wages to splitters and sawyers because of the demand for timber interstate for goldfield buildings and mines.¹²¹

Measuring success

The debate that emerges periodically in convict historiography – that convicts were better off in Australia than they were in the home country – adds little to an understanding of the convict experience.¹²² The second part of this thesis considers measures of success and whether the deliberate arsonists were successful. In doing so, this thesis recognises that success, as Kent and Townsend acknowledged in their study of the convicts of the *Eleanor*, is relative and highly subjective.¹²³

Historians have considered convict or emancipist success in various ways. For some, success was economic success. For the majority of post-Famine Irish settlers, convict or free, success was measured economically and the yardsticks were ‘reliable employment, adequate food and a comfortable life’.¹²⁴ Impediments to economic

¹²¹ Bennett, ‘The Impact of the Victorian Goldrush’, pp.78-79.

¹²² Anne O’Brien, *Poverty’s Prison: The Poor in New South Wales 1880-1918*, Melbourne, 1988, p.1; Alan Beever, ‘From A Place of “Horrible Destitution” to a Paradise of the Working Class. The Transformation of British Working Class Attitudes to Australia, 1841-1851’, *Labour History*, Vol.40, 1981, pp.1-15.

¹²³ David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London: Merlin and Annandale, NSW, 2002, p.249.

¹²⁴ Fitzpatrick, ‘Irish Immigration to Australia’, pp.54-55. For Irish economic mobility elsewhere, see Lynn Lees, *Exiles of Erin: Irish Migrants in Victorian London*, Manchester, 1979, pp.55-87; Frances Finnegan, *Poverty and Prejudice: Irish Immigrants in York, 1840-75*, Cork, 1982, and M. Lennon, M. McAdam and J. O’Brien, *Across the Water Irish Women’s Lives in Britain*, London, 1988. See also Swift, ‘The historiography of the Irish’, London, 1992, p.61: Swift urged the need for more research into the economic role of Irish women, ‘who, in the long term, made notable contributions to a range of low-paid professional occupations, including social work and nursing, but whose nineteenth-century

success included lack of occupational skills and illiteracy.¹²⁵ Williams stated that, because of their religion, lack of skills and illiteracy, the Irish convicts remained part of the working class of Tasmania, implying that this was an indication that they were less successful.¹²⁶ Fitzpatrick, on the other hand, argued that, given the conditions in post-Famine Ireland, for most, 'the acquisition of any regular paid employment (however menial) signified upward social mobility'.¹²⁷ The second part of this thesis examines whether social mobility was an indicator of success.

Some historians have considered marriage to be the benchmark of success for colonial women.¹²⁸ The second part of this thesis considers the validity of this assertion in the context of the deliberate arsonists. To other historians, it was those who did not re-offend who were considered successful.¹²⁹ Williams and Robson both commented on the 'good behaviour' of Irish convicts in Australia, implying that this was a measure of their success.¹³⁰

role appears to have been restricted to employment in textile mills, laundry work, street selling and, most notably, domestic service.'

¹²⁵ Williams, 'Irish Convicts in Tasmania', pp.28-29; Fitzpatrick, 'Irish Immigration to Australia', pp.53-54.

¹²⁶ Williams, 'Irish Convicts in Tasmania', p.28.

¹²⁷ Fitzpatrick, 'Irish Immigration to Australia', pp.54-55. The only comprehensive census of occupations followed by different religious and ethnic groups is that for NSW. in 1901.

¹²⁸ Smith, *A Cargo of Women*, p.67; Fitzpatrick, 'Irish Immigration to Australia', p.57.

¹²⁹ See, for example, Williams, 'Irish Convicts in Tasmania', pp.19-29.

¹³⁰ Robson, *The Convict Settlers*, pp.92,130: Robson discovered large numbers of Irish prisoners among the 10% of male and 20% of female convicts never punished in Australia; Williams, 'Irish Convicts in Tasmania', pp.27-28: over 3/5 of the Irish had no recorded colonial offences or had committed less than 5 minor ones. Many convictions were recorded for breaches of convict regulations, the most common were drunkenness, absence without leave and misconduct.

General living standards can also be used as a measure of success. For the deliberate arsonists, their standard of living was an improvement on what they had left behind in Famine-Ireland. Kent and Townsend noted that, in colonial Australia:

Small farmers, tenants, freeholders or selectors, usually had a hand-to-mouth existence. While food was plentiful, their diet was poor, typically salted meat, damper and very sweet black tea, much the same as convict rations. Very high consumption of sugar had usually rotted their children's teeth by the time they were twenty. They lived as they would have been forced to do in England, very frugal existence. Depending on the area, most would have started out in bark huts, perhaps progressing to slab dwellings or wattle and daub with shingle roofs'.¹³¹

Part Two examines the validity of Kent and Townsend's assessment of colonial living standards for the deliberate arsonists.

Damousi warned against focusing on individual material success, and criticized historians like Portia Robinson, Babette Smith, Monica Perrott and Annette Salt for being intent on rescuing those convict women who were not perceived as dissolute and abandoned and moulding them into respectable citizens.¹³² She argued that this preoccupation with whether convict women did or did not 'succeed' in becoming respectable citizens, or whether they remained 'dissolute' all of their lives, emanates from a liberal notion of 'success' measured in terms of the establishment of the bourgeois nuclear family. An analysis of this sort, she asserted, blames the victim for

¹³¹ Kent and Townsend, *Convicts of the Eleanor*, p.240. See also Michael Cannon, *Australian in the Victorian Age: Life in the Country*, Vol.2, West Melbourne, 1978, pp.25-27.

¹³² Joy Damousi, ' "Depravity and Disorder": The Sexuality of Convict Women', *Labour History*, No.68, May 1995, pp.3-45. See also Portia Robinson, *The Hatch and Brood of Time. A study of the first generation of native-born White Australians 1788-1828. Volume One*, Melbourne: 1985; Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Convict Society*, Melbourne, 1982; Babette Smith, *A Cargo of Women. Susannah Watson and the Convicts of the Princess Royal*, Sydney, 1988; Monica Perrott, *A Tolerable Good Success. Economic Opportunities for Women in New South Wales 1788-1830*, Sydney, 1983; Annette Salt, *These Outcast Women: The Parramatta Female Factory 1821-1848*, Sydney, 1984.

failing to achieve such an ideal, rather than considering the wider forces which shaped the lives of these women. Moreover, this focus on individual material success detracts from the issue of power relations which inscribed and defined gendered identities in colonial society.¹³³

The characteristics of the deliberate arsonists – their youth and age – suggest that officials tried to send convicts who would be successful colonisers, that the women were in fact human capital. The second part of this thesis examines the activities of the women in colonial Tasmania in light of this question. Such an examination is predicated on a belief that the aspirations of the women and the officials who sent them are likely to be different: they measured success differently. The second part of this thesis, then, attempts to fill a gap in the historiography, since so few historians have explored lives after sentence was complete.

¹³³ Damousi, 'Depravity and Disorder', p.30.

Chapter Four: Marriage

Ellen Wiseman, according to family lore, met her husband-to-be on the road while she was returning from a religious mission in Westbury.¹ He was a local farmer, an emancipist, recently-widowed and a bereaved father. Less than three years in the colony, Ellen was an assigned servant, residing in Launceston, with two rejected applications to marry. Among the deliberate arsonists, this meagre fragment is one of few details that survive about the personal aspects of marriage. For most of the women, the circumstances of their marriage must be reconstructed from civil registration and convict records: it is a dry catalogue of names, dates and places. The sub-text, the personal details, remain buried and little is known of how the women, and their partners, perceived marriage. Yet marriage was a major determinant of colonial experience. This chapter examines the place of marriage in the colonial life of the deliberate arsonists, as well as considering the ways in which women used marriage as a survival strategy and a means of exercising agency.

For much of the nineteenth century, marriage was perceived as the 'natural state' for both women and men.² In colonial Australia, the gender imbalance was acute: as Carmichael stated, 'A dominant influence on nineteenth century marriage patterns

¹ Jennifer Williams, 'Ellen Mary Wiseman and Reuben Cousins', in Bronwyn Quint (ed.) for the Descendants of Convicts' Group Inc., *Arrows of Hope. Selected Convicts Stories. Volume 2*, Melbourne, 2002, p.265.

² Barbara Caine, 'Woman's 'Natural State': Marriage and the 19th century English Feminists', *Hecate*, Vol.III, No.1, February 1977, pp.84-102. For middle-class marriage, see Leonore Davidoff and Catherine Hall, *Family Fortunes. Men and women of the English middle class, 1780-1850*, London, 1987, pp.322-329.

was, of course, the marked gender imbalance, which made it inevitable that a much higher proportion of females than males married.³ As late as 1847, women accounted for only 32 per cent of Tasmania's population.⁴ On the other hand, in post-Famine Ireland, the converse was true: severe economic dislocation nullified or deferred marriage prospects. Consequently, free women were frequently caricatured as migrating in search of a husband.⁵ No such claim has been made for the deliberate arsonists, nor has any evidence been located to support this theory. Yet the majority of deliberate arsonists, as depicted in Figure 28, were single when they arrived in Van Diemen's Land; most had at least one colonial marriage. Approximately 90 per cent of the deliberate arsonists, stated to be single on arrival, married in the colony.

This is considerably higher than Williams' conclusion that 32 per cent of the single women tried in Ireland and 18 per cent of those transported from England, Scotland or Wales married in Van Diemen's Land.⁶ Payne suggested that 43 per cent of female convicts married in the colony.⁷ Both sets of figures seem unusually low:

³ For a demographic analysis of the colonial gender imbalance, see Gordon A. Carmichael, 'So Many Children. Colonial and Post-Colonial Demographic Patterns', in Kay Saunders and Raymond Evans (eds), *Gender Relations in Australia. Domination and Negotiation*, Sydney, 1992, pp.118-120.

⁴ *Statistics of Tasmania* 1847.

⁵ See, for example, Sharon Morgan, ' "This Land of Plenty": A Study of Irish Immigrant Women in Colonial Victoria, 1840-1860', unpublished M.A. Thesis, University of Melbourne, 1986, p.79; *Melbourne Punch* Vol.5, 20 August 1857 p.26; Vol.3, 14 August 1856, p.11.

⁶ John Williams, *Ordered to the Island. Irish Convicts and Van Diemen's Land*, Sydney, 1994, p.150.

⁷ H.S. Payne, 'A Statistical Study of Female Convicts in Tasmania, 1843-1853', *THRAPP*, Vol.9, No.2, June 1961, p.66. Robson calculated 27% married but qualified this and noted that civil registers had not been examined: L.L. Robson, *The Convict Settlers of Australia*, Melbourne, 1965, p.135.

Woods calculated that, of 122 single women on board the *Duchess of Northumberland* in 1853, at least 79.5 per cent married in Tasmania.⁸

It is not clear how Williams or Payne calculated the marriage rate but it seems likely that neither made a detailed study of civil registration records using techniques adopted by family historians – a prerequisite hinted at by A.G.L. Shaw when he commented that convict research needed ‘personal studies of the type some of our genealogists have been able to carry out’.⁹

This chapter considers marriage trends of the deliberate arsonists, by examining in general terms Irish marriage patterns and then colonial marriage patterns. In the absence of detailed personal individual information, a consideration of marriage patterns can help illustrate the place of marriage in the lives of the deliberate arsonists. Significantly, in colonial Van Diemen’s Land marriage was not a straightforward arrangement but one which took place within the complexities and constrictions of penal society. In particular, colonial regulations governing permission to marry played a substantial part in shaping marriage experience and in determining how much choice a convict woman could wield in the selection of a marriage partner. Consequently, the first part of this chapter, in an attempt to establish marriage trends, investigates the marital status of the deliberate arsonists on

⁸ Christine Woods, *The Last Ladies. Female Convicts on the Duchess of Northumberland, 1853*, Claremont, Tas., 2004: of 122 single women on board, 97 (79.5%) married in Tasmania.

⁹ A.G.L. Shaw, ‘The Convict Question, 1966 and 1998’ in *Exiles of Empire. Tasmanian Historical Studies*, Vol.6, No.2, 1999, p.4. These are published papers from the 1998 annual conference of the Centre for Tasmanian Historical Studies.

arrival, the proportion of women who married, their age at marriage, and place of marriage. It also examines their choice of spouse (including civil status, nationality, religion and occupation).

Irish and Colonial Marriage Patterns

‘no house could be kept without a woman’¹⁰

Dramatic changes to Irish marriage patterns occurred in the half-century following the Famine. According to K.H. Connell, before the Famine, ‘peasants’ married early and often impetuously, leading to a rapid growth in population.¹¹ Young men and women were expected to marry and to raise a family. People married at a relatively young age, as there was usually no reason to delay marriage.¹² In pre-Famine Ireland, marriage was an accepted social institution, an intrinsic part of the life cycle.¹³

¹⁰ *Freeman's Journal*, 30 March 1850 p.2 col.4: letter from Van Diemen's Land 22 July 1850, John Mitchel at Bothwell. For similar arguments, see Joanna Bourke, ‘“The Best of all Home Rulers”: The Economic Power of Women in Ireland, 1880-1914’, *Irish Economic and Social History*, Vol. XVIII, 1991, pp.34-47, esp. p.45: ‘Unmarried men always needed a woman ...[to perform domestic tasks]’.

¹¹ K.H. Connell, *The Population of Ireland 1750-1845*, Oxford, 1950, esp. Chs.2 and 3. See also Gearoid O Tuathaigh, ‘The Role of Women in Ireland under the new English order’, in Margaret Mac Curtain and Donncha O Corrain (eds) *Women in Irish Society. The Historical Dimension*, Dublin, 1978, pp.31-32, who estimated that the average age at marriage immediately before the Famine was about 22 or slightly younger; L.A. Clarkson, ‘Love, Labour and Life: Women in Carrick-on-Suir in the Late Eighteenth Century’, *Irish Economic and Social History*, XX, 1993, pp.18-34, who found that on average men and women married in their mid-twenties. cf. Michael Drake, ‘Marriage and Population Growth in Ireland, 1750-1845’, *Economic History Review*, Second Series, Vol.16, 1963, pp.303-5, who suggested that the prevalence of early marriage has been greatly exaggerated.

¹² Morgan, ‘This Land of Plenty’, p.12.

¹³ Lees, *Exiles of Erin*, pp.143-146. See also Robert E. Kennedy, Jr., *The Irish: Emigration, Marriage, and Fertility*, Berkeley, 1973, pp.139, 215. Kennedy cited figures showing that only 10% of men and 12% of women aged 45-54 were still single at the 1841 Census. See also Lynn Hollen Lees, *Exiles of Erin: Irish Migrants in Victorian London*, Manchester, 1979, p.143: Lees, citing from the 1836 Poor Inquiry, suggested that, among those with farms, marriage was almost universal because of the economic benefits; running a small farm required the labour of a woman and children because profits were low and servants could not be afforded.

Irish historiography concentrates on marriage rates before and after the Famine; rarely is the period of the Famine itself discussed, no doubt because of the terrible social dislocation that occurred. After the Famine, the approach to marriage was more restrained and calculated, related in part to economic reasons including the subdivision of farming land.¹⁴ Religion, too, played a part: Connell suggested that Irish priests imbued Malthusianism with a 'peculiar authority', prescribing a 'preventive check' defined by Malthus as 'a restraint from marriage from prudential motives, with a conduct strictly moral during the period of this restraint.'¹⁵ The proportion who never married in Ireland rose considerably between 1851 and 1881.¹⁶ The Irish tendency not to marry during this period meant that a quarter of the post-Famine population never married; of those that did, men on average did not marry until thirty-eight and women until thirty.¹⁷ Birth rates also declined, and the age gap between husbands and wives increased.¹⁸

¹⁴ K.H. Connell, *The Population of Ireland 1750-1845*, Oxford, 1950; K.H. Connell, 'Peasant Marriage in Ireland: its Structure and Development since the Famine', *Economic History Review*, Series 2, Vol.14, No.2, 1961, pp.502-523; K.H. Connell, 'Catholicism and Marriage in the Century after the Famine', in K.H. Connell, *Irish Peasant Society: Four Historical Essays*, Oxford, 1968, pp.114-118, 129-30; Lees, *Exiles of Erin*, p.147. For the relationship between dowries and marriage, see Lee, 'Women and the Church', p.39: dowries were now only provided for one daughter; the others were forced to marry without a dowry or to remain single. See also Connell, 'Peasant Marriage', pp.504-509.

¹⁵ Connell, 'Catholicism and Marriage', pp.114-118, 129-30; T.R. Malthus, *Essay on Population*, cit Connell, 'Catholicism and Marriage', p.144. See also J.J. Lee, 'Women and the Church since the Famine', in MacCurtain and O Corrain, *Women in Irish Society*, p.38.

¹⁶ Mark C. Foley and Timothy W. Guinnane, 'Did Irish Marriage Patterns Survive the Emigrant Voyage? Irish-American Nuptiality, 1880-1920', *Irish Economic and Social History*, Vol.26, 1999, p.34.

¹⁷ Connell, 'Catholicism and Marriage', pp.117-118. See also Bourke, 'The Best of all Home Rulers', p.45.

¹⁸ Lee, 'Women and the Church' p.38; Lees, *Exiles of Erin*, p.147.

The reasons behind the demographic shift have been much debated,¹⁹ as has the transferability of marriage patterns to an emigrant country.²⁰ The validity of the latter was scrutinized by Mark Foley and Timothy Guinnane, who investigated the transfer of Irish marriage patterns to the United States as the result of emigration.²¹ They explored whether a distinctive Irish marriage pattern existed, identifying four major determinants: economic opportunities (which supported the demand for new households); economic and social context (that is, the demand for marriage, which can vary systematically across occupational groups, class, and even places of residence); the availability of mates; and 'culture', which they define as 'a shared community of origin, with shared attitudes towards sexuality, family life, and perhaps notions about the role of women'.²² Foley and Guinnane concluded, from their study of census samples in the United States, that the nuptiality of Irish-Americans was less distinctive and more complex than had been thought.²³ Significantly, they pointed out:

¹⁹ See, for example, Connell, *The Population of Ireland*; K.H. Connell, 'Peasant Marriage in Ireland After The Great Famine', *Past and Present*, Vol.XII, 1957, pp.76-91; K.H. Connell, 'The Land Legislation and Irish Social Life', *Economic History Review*, Second Series, Vol.XI, No.1, 1958, pp.1-7; K.H. Connell, 'Peasant Marriage', 1962, pp.502-523; Drake, 'Marriage', pp.303-5; K.H. Connell 'Catholicism and Marriage', O Tuathaigh, 'The Role of Women', pp.31-32; Bourke, 'The Best of all Home Rulers': p.45; T.W. Guinnane, *The Vanishing Irish: Households, Migration, and the Rural Economy in Ireland 1850-1914*, Princeton, 1997. For a summary of the historiography, see Foley and Guinnane, 'Irish Marriage Patterns', pp.15-16 and Morgan, 'This Land of Plenty', p.12.

²⁰ See, for example, Lees, *Exiles of Erin*, pp.140-141; Hasia R. Diner, *Erin's Daughters in America. Irish Immigrant Women in the Nineteenth Century*, Baltimore, 1983. For an Australian context, see Morgan, 'This Land of Plenty', Chapter Four; Chris McConville, 'The Victorian Irish: emigrants and families, 1851-91' in Patricia Grimshaw, Chris McConville and Ellen McEwen (eds), *Families in Colonial Australia*, Sydney, 1985, pp.1-8; Patricia Grimshaw and Charles Fahey, 'Family and community in nineteenth century Castlemaine', in Grimshaw, McConville and McEwen, *Families in Colonial Australia*, pp.83-104; Shirley Fisher, 'Sydney Women and the Workforce 1870-90', in Max Kelly (ed.), *Nineteenth Century Sydney. Essays in Urban History*, Sydney, 1978, pp. 95-105.

²¹ Foley and Guinnane, 'Irish Marriage Patterns', pp.15-16.

²² Foley and Guinnane, 'Irish Marriage Patterns', pp.18-20. Quote at p.20.

²³ Foley and Guinnane, 'Irish Marriage Patterns', pp.15, 29.

Scholars of migration (both historical and contemporary) have noted that migrants are never a random sample of the population from which they come. Migrants on average may be wealthier or poorer, better or less educated, more or less willing to take risks than the people they left behind.²⁴

The transfer of marriage patterns to the emigrant country, then, is complex and determined by a variety of factors. Foley and Guinnane suggested that differences in marriage patterns in their study were almost entirely accounted for by the urban residence and low socio-economic status of Irish-Americans, and that there were significant differences between Irish-American men and women.²⁵ Lee, in her study of Irish migrants in Victorian London, argued that Irish rural marriage patterns were not transferred but were changed as a result of London's industrial or urban environment.²⁶ In colonial Van Diemen's Land, the transfer of marriage patterns was further complicated by constrictions imposed by the Convict Department and penal settlement.

Discussion about colonial marriage has been distorted, to a large extent, by terminology, and the failure to recognise common-law marriages, or cohabitation, as an acceptable form of marriage. Early commentators on colonial marriage refused to acknowledge that marriage could take many forms; cohabitation was a 'scandalous and pernicious custom' and the product of convict immorality.²⁷ For many colonial

²⁴ Foley and Guinnane, 'Irish Marriage Patterns', p.20. See also Connell, 'Catholicism and Marriage' p.144.

²⁵ Foley and Guinnane, 'Irish Marriage Patterns', p.33.

²⁶ Lees, *Exiles of Erin*, pp.153-155.

²⁷ Carmichael, 'So Many Children', pp.118-119: Governor King in 1806 reported that 28% of adult women were married while most others lived in *de facto* unions. In 1810, Governor Macquarie registered his disapproval of the 'scandalous and pernicious custom so generally and shamelessly adopted throughout the territory of persons of different sexes cohabiting and living together unsanctified by legal ties of matrimony'. The ratio of 'natural' to 'legitimate' children was 2:1.

adults, however, common-law marriage was accepted as the customary and binding form of marriage.²⁸ Portia Robinson suggested that, among the high number of single men and women arriving in New South Wales in the period of her study, there may have been many couples who were married according to common-law and would therefore have been designated single by the authorities.²⁹ Considered by their own standards, Robinson suggested, many of the women described as concubines, harlots, whores and prostitutes were 'family women'. Her study accentuated the existence of different, socially accepted types of marriage and family structures.³⁰ Kociumbas suggested that many *de facto* relationships were long-lasting and stable.³¹

Cohabitation, in colonial society, was not limited to convict couples. In her study of immigrant women, Rushen found strong evidence that some of the immigrant women found security through living with a partner whom they did not marry – following the prevailing working-class tendency to delay formal marriage.³² Marilyn Lake, writing

Robson, *The Convict Settlers*, p.142: as late as 1828, only 42% of women transported before 1826 had married. For the reasons for the alleged prevalence of cohabitation in early NSW, see Portia Robinson, *The Hatch and Brood of Time. A study of the first generation of native-born White Australians 1788-1828. Vol. One*, Melbourne, 1985, esp. pp.17, 76; Alan Atkinson, 'Marriage and Distance in the Convict Colonies, 1838', *The Push from the Bush: A Bulletin of Early Social History*, No.16, October 1983, pp.61-70.

²⁸ Michael Sturma, 'The Eye of the Beholder: The Stereotype of Women Convicts 1788-1852', *Labour History*, No.34, 1978, pp.3-10; C.H. Currey, 'The law of marriage and divorce in New South Wales (1788-1858)', *JRAHS*, Vol.41, No.3, 1955, pp.97-114. For a summary of marriage laws in colonial New South Wales, see Hilary Golder and Diane Kirkby, 'Marriage and divorce law before the *Family Law Act 1975*' in Diane Kirkby (ed.), *Sex Power and Justice: historical perspectives of law in Australia*, Melbourne, 1995, pp.152-154; Jan Kociumbas, *Australian Childhood: A History*, St Leonards, NSW, 1997, p.41: until the *Colonial Marriage Act 1834* only weddings conducted by the Church of England were legally valid.

²⁹ Robinson, *Hatch and Brood*, p.77.

³⁰ Robinson, *Hatch and Brood*, p.17.

³¹ Kociumbas, *Australian Childhood*, p.41.

³² Elizabeth Anne Rushen, 'Free, single and female: the women of the first scheme for female emigration to Australia, 1833-1837', Monash University, unpublished Ph.D. Thesis, 1999, pp.226-228.

of Irishwomen generally, stated they were described as 'loose' because they did not adhere to middle-class moral values.³³ Carmichael suggested that greater order was established as free settlement replaced transportation and domestic marriage laws were enacted in all colonies, between 1836 and the mid-1840s.³⁴ Even so, in colonial Van Diemen's Land in the second half of the nineteenth century, cohabitation continued to be accepted, at least among some groups. At least five women in this study formed relationships without apparently marrying. Bridget Scanlan and engine driver George Cooper settled at Seymour on the East Coast of Tasmania and had at least eight children, but no record of marriage has been located.³⁵ Alice Griffith, deserted by her husband William Ryan, formed a relationship with Henry Doreman or Dorman, having at least two children with him.³⁶ Mary Hennessy had children to William Birch; no marriage has been located.³⁷ Cohabitation may also explain why marriages cannot be located for Bridget Bryan³⁸ and Catharine Byrne.³⁹

See also Morgan, 'This Land of Plenty' pp.94ff, for a discussion of varied reactions to adultery, cohabitation and illegitimate children among migrant women in Victoria.

³³ Marilyn Lake, 'The Trials of Ellen Kelly' in Marilyn Lake and Farley Kelly, *Double Time. Women in Victoria – 150 years*, Ringwood, 1985. See also Hilary Golder, *Divorce 19th Century New South Wales*, Kensington, NSW, 1985, p.171.

³⁴ Carmichael, 'So Many Children', p.118.

³⁵ Chris Beasley, *personal communication*, 17 April 2004. Bridget Cooper, widow of the late George Cooper, died in 1895: see AOT, RGD 35/64 Glamorgan No.283: Bridget Cooper (5 May 1895).

³⁶ AOT, RGD 33/8 1861 Hobart No.4351: Mary Elizabeth Doreman (19 May 1861); AOT, RGD 33/9 1864 Hobart No.7055: Tarindow Clara Dorman (18 July 1864).

³⁷ AOT, RGD 33/8 1863 Hobart No. 6008: Henry William Birch (2 April 1863); AOT, RGD 33/9 1867 Hobart No.8940: Emma Birch (24 November 1866). Her mother's name was recorded as 'Innes'.

³⁸ AOT, CON 41/30 and CON 15/7 Bridget Bryan *Blackfriar* No.1105. She had no colonial offences and received a conditional pardon in 1856. This is the last record of her.

³⁹ AOT, CON 41/33 and CON 15/7 Catharine Byrne *John William Dare* 1852 No.1168. She had minor colonial offences and received a free certificate in 1858. This is the last record of her.

The question of marriage raised an important social tension in colonial penal settlements. This was for two main reasons: the imbalance in numbers between the sexes, and the notion that marriage was an intrinsic part of convict reformation.

Only one-sixth of all convicts – and 25 per cent of Irish convicts – were women.⁴⁰ Transported women were encouraged to marry, and, according to Alford and Oxley, were to provide sexual and domestic services to the overwhelmingly male population.⁴¹ Golder and Kirkby argued that institutions and practices based on this family ideology developed as a result of colonial policy.⁴² Marriage was the ‘expected state’ for most Australian women throughout the nineteenth century.⁴³

The re-creation of Irish marriage patterns in Van Diemen’s Land was complicated by the fact that convict marriage in Van Diemen’s Land was not a simple act between two people. Writing of marriage generally, Gillis, in *For Better, For Worse*, suggested that marriage should not just be viewed in legal, institutional terms but as a social drama in which not just the couple but several parties play crucial roles.⁴⁴ He

⁴⁰ Dianne Snowden, ‘Female Convicts’ in Alison Alexander (ed.), *The Companion to Tasmanian History*, Hobart, 2005, p.131.

⁴¹ Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850*, Melbourne, 1984; Deborah Oxley, ‘Female Convicts’ in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia’s Past*, Melbourne, 1988, pp.85-97.

⁴² Golder and Kirkby, ‘Marriage and divorce law’, p.152.

⁴³ Golder and Kirkby, ‘Marriage and divorce law’, p.152. See also Alford, *Production or Reproduction?*; Beverley Kingston, *The Oxford History of Australia: 1860-1900*, Vol.3, Melbourne, 1988, pp.117-119; Katie Spearitt, ‘The Market for Marriage in Colonial Queensland’, *Hecate*, Vol.16, 1990, pp.23-42. This was also true of the United Kingdom: see also Barbara Caine, ‘Woman’s ‘Natural State’: Marriage and the 19th century English Feminists’, *Hecate*, Vol.III, No.1, February 1977, pp.84-102 and Leonore Davidoff and Catherine Hall, *Family Fortunes. Men and women of the English middle class, 1780-1850*, London, 1987, p.324.

⁴⁴ John R. Gillis, *For Better, For Worse. British Marriages, 1600 to present*, Oxford, 1985, p.6.

continued, stating that 'standard historical sources ... reinforce our tendency to consider only the conjugal, therefore wholly obscuring the complexity and multiplicity of meanings found in marriage.'⁴⁵ In Van Diemen's Land, where convict marriage was also seen as a form of social control, this was particularly true.⁴⁶

The whole issue of convict marriage is complex, and there were significant changes over time and place. These especially related to government policies. The most important of these was dominated by the view that convicts, especially women, could be reformed through marriage and transformed into virtuous and industrious members of society. In Van Diemen's Land, successive administrations encouraged convict marriage, as a form of control or means of reform.⁴⁷ Paradoxically, convict women were to be the instrument of moral reform through marriage – yet were collectively viewed as depraved by contemporary commentators and later historians.⁴⁸

⁴⁵ Gillis, *For Better, For Worse*, p.6.

⁴⁶ For marriage as a form of social control, see Alford, *Production or Reproduction?*, pp.52-67. See also Marian Aveling, 'She only married to be free: or, Cleopatra vindicated' in Norma Grieve and Patricia Grimshaw (eds) *Australian Women. Feminist Perspectives*, Melbourne, 1981, pp.122-123.

⁴⁷ AOT, GO 33/64 p.287 Comptroller-General to Lieutenant-Governor 30 May 1848; *British Parliamentary Papers* Transportation, Vol.9. Lieutenant-Governor to Secretary of State to Sir William Denison 5 December 1847. See also Ian Brand, *The Convict Probation System: Van Diemen's Land 1839-1854*, Hobart, 1990, p.94. The question of wives 'policing' convict morals has been addressed by Anne Summers, *Damned Whores and God's Police: The Colonization of Women in Australia*, Ringwood, 1975. See also Alford, *Production or Reproduction*; Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Convict Society*, Melbourne, revised edition, 1993; Robinson, *Hatch and Brood*; and Monica Perrott, *A Tolerable Good Success. Economic Opportunities for Women in New South Wales 1788-1830*, Sydney, 1983. See also Dianne Snowden, 'Convict Marriage: "the best instrument to reform"', *Tasmanian Historical Studies*, Vol.9, 2004, pp.63-71.

⁴⁸ For a summary of these views, see Marian Aveling, 'Bending the Bars. Convict Women and the State' in Saunders and Evans (eds), *Gender Relations*, pp.147-149.

Convict marriage was seen as a reward or indulgence for good behaviour.⁴⁹ Colonial authorities also thought that marriage was 'most reformatory', especially for female convicts.⁵⁰ In 1846, when he was appointed Lieutenant-Governor, Sir William Denison received a detailed despatch depicting the state of the convict system in the colony from the Secretary of State, Earl Grey. Underlying Grey's plans for the female convicts was the belief that they should be prepared to become wives and mothers, having received appropriate moral and religious instruction while under sentence. Furthermore, they were to be encouraged to form 'legitimate connections with unmarried convicts'.⁵¹ In 1848, Comptroller-General Hampton pronounced the view that convict women should be hired out as soon as they arrived in the colony, and encouraged to marry, as this had proved to be 'the best instrument of reform'.⁵² Denison shared his views.⁵³ In 1850, newly-arrived convict women were no longer housed on the *Anson* to await hire as probation servants, but immediately received probation passes and were offered remissions in their sentences for good conduct in

⁴⁹ For NSW, see Aveling, 'She Only Married to Be Free', p.122; David Kent and Norma Townsend, 'Some Aspects of Colonial Marriage', *Labour History*, Vol.74, 1998, pp.40-53; Norma Townsend, 'Penelope Bourke Revisited', *Labour History*, Vol.77, 1999, pp.207-218. At least as late as 1837 in NSW, it was believed that a convict woman became free if she married: Aveling, 'She Only Married to Be Free', p.122.

⁵⁰ AOT, CSO 22/50/208.

⁵¹ *BPP, Transportation*, Vol.7: Secretary of State to Sir William Denison 30 September 1846; Brand, *The Convict Probation System*, p.68.

⁵² AOT, GO 33/64 p.287, Comptroller-General to Lieutenant-Governor 30 May 1848; *BPP, Transportation*, Vol.9: Lieutenant-Governor to Secretary of State to Sir William Denison, 5 December 1847. See also Brand, *The Convict Probation System*, p.94.

⁵³ AOT, GO 33/64 p.287, Comptroller-General to Lieutenant-Governor 30 May 1848; *BPP, Transportation*, Vol.9: Lieutenant-Governor to Secretary of State to Sir William Denison, 5 December 1847; Brand, *The Convict Probation System*, p.94.

service, or upon marriage. This was designed to promote more settled habits.⁵⁴ In 1851, regulations governing female passholders were broadened: passholders were required to serve less time before becoming eligible to apply for a ticket-of-leave. This applied to those who were well-behaved and those who married.⁵⁵

Interestingly, little has been written about marriage as reformation for male convicts.⁵⁶ Discussion of colonial convict marriage has usually been entangled in the debate about convict women, and the dualism of the 'damned whores' and 'God's Police' stereotype. Focus on convict marriage, in an historiographical sense, grew from attempts to redress the image of the convict woman as a depraved prostitute. Historians such as Portia Robinson 'rescued' the convict woman from her tarnished historical position, arguing that the majority of convict women were rehabilitated through marriage and went on to become good family women. There was no suggestion that convict women could be both, no suggestion of fluidity or complexity of roles. To a large extent, modern historians have adopted the thinking of colonial authorities: that marriage was rehabilitative and civilizing.

Focus on convict regulations and the system of indulgences has led to an emphasis on marriage as pragmatic, exemplified in Aveling's instrumentalist approach to convict

⁵⁴ Brand, *The Convict Probation System*, p.104. See also AOT GO 33/69 p.448, Comptroller-General to Lieutenant-Governor, 30 January 1850; AOT, GO 33/71 p.474, Comptroller-General to Lieutenant-Governor, 10 July 1850.

⁵⁵ Brand, *The Convict Probation System*, p.228: *BPP, Transportation*, Vol.II, Comptroller-General to Lieutenant-Governor, 5 August 1851, Appendix 5.

⁵⁶ See, however, Tina Picton Phillips, 'Convicts, communications and authority: Britain and New South Wales, 1810-1830', unpublished Ph.D. Thesis, University of Edinburgh, 2001, esp. Ch.5.

marriage.⁵⁷ This debate is also reflected in writings about emigrant women and the suggestion that Irish women only emigrated in search of a husband.⁵⁸ Morgan suggested that men at least viewed wife-selection as a practical problem, not a romantic one, adding that the attitudes of Irishwomen towards marriage were more difficult to ascertain.⁵⁹

Another strand to the instrumentalist approach to marriage is that expressed by historians of marriage and the family, such as Alford and Grimshaw, who explored the role of marriage in colonial society. In *Production or Reproduction*, Alford argued that because marital status was a determinant of social status, marriage was preferable to being single: 'single women of virtually whatever rank were seen as morally and socially inferior to married women, and as somewhat of a threat to decency and social order'.⁶⁰ Because contemporary mores emphasized the reproductive role of women, there were consequently restricted economic opportunities for women.⁶¹ Grimshaw, in *Man's Own Country*, asserted that colonial marriage offered women a more favourable life than spinsterhood 'given the economic and sexual constraints of the single life'.⁶² There are several strands to this

⁵⁷ Aveling, 'She only married to be free', pp.119-133.

⁵⁸ See, for example, Sharon Morgan, ' "This Land of Plenty": A Study of Irish Immigrant Women in Colonial Victoria, 1840-1860', unpublished M.A. Thesis, University of Melbourne, 1986, p.79; *Melbourne Punch*, Vol.5, 20 August 1857, p.26; Vol.3, 14 August 1856, p.11; Bourke, 'The Best of all Home Rulers', p.45.

⁵⁹ Morgan, 'This Land of Plenty', p.77; Patrick O'Farrell, *Letters from Irish-Australia 1825-1929*, Sydney & Belfast, 1984, p.105.

⁶⁰ Alford, *Production or Reproduction*, p.9.

⁶¹ Alford, *Production or Reproduction*, pp.7-9.

⁶² Grimshaw, *Man's Own Country*, p.195.

discourse, which are worth teasing out. One way of doing this is to look at the place of marriage in the life of the deliberate arsonists.

Was colonial marriage more than a pragmatic arrangement? Little evidence survives of courtship practices. In pre-Famine Ireland, courtship patterns were different between the propertied and non-propertied classes, with more parental control where property was involved.⁶³ Alan Atkinson analysed the courtship patterns of early convicts, concluding that, although there was some evidence of affection amongst couples wishing to marry, the decision to marry was largely pragmatic, 'a means of building a solid and respectable foundation to life'.⁶⁴ For the deliberate arsonists, there is little evidence of their attitude to marriage, or their courtship practices. Some may have met while working together: Alice Tobin and William Moy, for example, were both assigned in the same household in 1852.⁶⁵ They successfully applied for permission to marry in October 1854 and married in 1855.⁶⁶

Marital status on arrival

As already noted, the majority of the deliberate arsonists were single on arrival.

Determining their marital status is relatively clear-cut; the information is contained on

⁶³ Lees, *Exiles of Erin*, pp.145-148.

⁶⁴ Alan Atkinson, 'Convicts and Courtship', in Grimshaw, McConville and McEwen (eds) *Families in Colonial Australia*, pp.19-31. See also Grace Karskens, *The Rocks. Life in Early Sydney*, Melbourne, 1997, pp.86-90.

⁶⁵ AOT, CON 41/35 Alice Tobin Martin Luther No.379; AOT, CON 33/104 William Moy Blenheim (4) 1851 No.24816. (Moy appears as May on the Tasmanian Convict Index.) In 1852, Alice Tobin was assigned to Miles 'Rielly' in Sandy Bay; in December 1852, Moy was also assigned to Miles 'Riley'. While assigned to Riley, Moy was punished twice for being out after hours. These were his only colonial offences but there is no evidence that they related to his courtship of Alice.

⁶⁶ AOT, CON 52/7 p.290: Tobin/Moy; AOT, RGD 37/14 1855 Hobart No.236: Tobin/Moy (19 February 1855).

their conduct record and indent. In some instances, however, there are discrepancies between information contained in the gaol report section of the conduct record, and that recorded on the indent. Sometimes this appears to have resulted from the confusion created by women with the same name arriving on the same ship.⁶⁷

Some historians have argued that the information provided by convict women about their marital status is unreliable, because it was tainted by their perception that they would do better in colonial Australia if they were single.⁶⁸ Two important elements of this debate are worth reiterating. One of these is the belief that convict women would do better in Australia if they married.⁶⁹ The other is the belief that married women deliberately lied about their marital status in order to enhance their colonial marriage prospects.⁷⁰ There is no strong evidence to support either of these notions, particularly amongst the deliberate arsonists.

Only 5 per cent of the deliberate arsonists stated that they were married when they arrived in Van Diemen's Land.⁷¹ Few provided information about their husbands. In most cases, this additional information was limited to a name and sometimes a

⁶⁷ See, for example, Mary McNamara 1st and Mary McNamara 2nd *Australasia* in 1849, and Mary Leary 1st, 2nd and 3rd *Lord Auckland* (3) 1849: the conduct records confuse the individual women. AOT, CON 41/24 *Australasia* 1849; AOT, CON 41/20 *Lord Auckland* (3) 1849.

⁶⁸ For a summary of the debate, see Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995, pp.50-51 & fn7. See also Ian Donnachie, '“Utterly Irreclaimable”: Scottish convict women and Australia, 1787-1852', *Journal of Regional & Local Studies*, Volume 8, No.2, 1988, p.2 cf. Atkinson, 'Convicts and Courtship', p.21.

⁶⁹ Atkinson, 'Convicts and Courtship', p.21.

⁷⁰ Donnachie, 'Utterly Irreclaimable', p.2.

⁷¹ See Figure 3 Part Two Introduction.

Grey in 1850, applied for permission to marry as ‘Mary Ann Ligett or Leggett’ and married as Margaret ‘Leggett’.¹¹³

Determining the colonial marriage patterns of the deliberate arsonists includes a thorough examination of who they married, and their nationality, religion, occupation, and civil status. Choice of partner, to some extent, was demographically determined, depending upon the availability of potential spouses.¹¹⁴ In the case of the deliberate arsonists, as with convict women generally, the choice of partner was limited not only by demographic availability but also by the constraints of the Convict Department. After 1851, the exodus of men to the goldfields dramatically diminished the sexual imbalance in Van Diemen’s Land, but the ratio of women to men was still about 6:10.¹¹⁵

Nationality of husbands

It is not always possible to determine the ‘Native Place’ of the men whom the deliberate arsonists married, especially if their civil status was free. However, as Figure 33 demonstrates, the nationality of their husbands does not seem to have been

¹¹³ AOT, CON 41/26 Margaret Leggitt *Earl Grey* 1850 No.466; AOT, CON 52/7 p.358: Liggett or Leggett/Platt; AOT, RGD 37/13 1854 Hobart No.400: Leggett/Platt (17 July 1854).

¹¹⁴ For marriage patterns of Irish women in Castlemaine, see Patricia Grimshaw and Charles Fahey ‘Family and community in nineteenth-century Castlemaine’ in Grimshaw, McConville and McEwen *Families in Colonial Australia*, p.89: they concluded that Irishwomen in Castlemaine in 1861 were less likely to marry their countrymen than were English or Scottish women: 33.8% of Irish mothers; 48.4% Scottish mothers; and 78.7% of English mothers married countrymen. See also Morgan, ‘This Land of Plenty’, pp.76-77, who suggested that this was because there were more prospective English husbands than any other nationality, and Chris McConville, ‘The Victorian Irish: emigrants and families, 1851-91’ in Grimshaw, McConville and McEwen, *Families in Colonial Australia*, p.6, who found less than half of the Irishwomen who married in Victoria in 1871 took Irish husbands, partly because single Irishwomen outnumbered Irish bachelors.

¹¹⁵ Scott Bennett, ‘The Impact of the Victorian Goldrush on the Economy of Van Diemen’s Land’, *A.N.U. Historical Journal*, October 1964, Vol.1, No.1, pp.69-84.

was continually absent for seven years, then the other could remarry.⁷⁸ The official position, however, was confused.⁷⁹

On arrival, three of the deliberate arsonists stated that they were widows. Two remarried in Van Diemen's Land. Widow Margaret Leary, a twenty-two-year-old country servant who arrived in 1848, married the year after her arrival. On her marriage record, she was described as a spinster.⁸⁰ Mary Sullivan, a twenty-eight-year-old widowed housemaid, arrived in 1849 and, as a 'widowed servant', married in 1851.⁸¹ The third widow, Mary Nolan alias Butler, was one of the oldest of the deliberate arsonists and she does not appear to have married in Van Diemen's Land. A sixty-year-old widow when she arrived in 1849, Mary stated that she had committed arson deliberately in order to join her daughter. Admitted to the New Norfolk Asylum in 1861, Mary died at the New Norfolk Hospital in 1872.⁸²

⁷⁸ On this point, see Henry Finlay, 'Divorce and the Status of Women. Beginnings in Nineteenth Century Australia', Presentation to a seminar at the Australian Institute of Family Studies, 20 September 2001 at <http://www.aifs.gov.au/institute/seminars/finlay.html>, pp.12-16; Kent and Townsend, 'Colonial Marriage', p.42. See also George Rudé, '“Captain Swing” and Van Diemen's Land', *THRAPP*, Vol.12, 1963, p.17.

⁷⁹ Jennifer Parrott, 'For the Moral Good? The Government Scheme to unite Convicts with their Families 1818-1843', unpublished Master of Humanities Thesis, University of Tasmania, 1994, pp.62-64. See also David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London: Merlin and Annandale, NSW, 2002, pp.214-215, 249.

⁸⁰ AOT, CON 41/19 and CON 15/5 Margaret Leary *Kimnear* (2) 1848 No.405; AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls (5 November 1849).

⁸¹ AOT, CON 41/20 Mary Sullivan 1st *Lord Auckland* (3) 1849 No.830; AOT, RGD 37/10 1851 Hobart No.533: Sullivan/Thickers (12 May 1851).

⁸² AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. Her daughter, Margaret or Peggy Butler, arrived on the *Earl Grey* in 1850. See also AOT, RGD 35/41 1872 New Norfolk No.337: Mary 'Nowlan'.

It is sometimes commented that female convicts conveniently discarded husbands shortly before being transported in the hope that this would improve their chances in their new colony.⁸³ There is no easy way, however, of verifying the claims of those women who stated that they were widowed. It is likely that many were genuinely widowed. Widows were economically vulnerable, and therefore may have deliberately committed arson to be transported to improve their circumstances. Langan-Egan's study found that many labourers' widows in Mayo were reduced to begging and homelessness.⁸⁴

Convict Permission to Marry

Convict marriage patterns were determined largely by external factors, not the least of which were the convict permission to marry regulations. As mentioned previously, the question of convict marriage was complicated by government involvement, through regulation and policy. Generally speaking, if one of the parties to a marriage was a convict under sentence, then the couple had to apply to the Lieutenant-Governor for permission to marry. Little has been written about the regulations governing convict applications for permission to marry.⁸⁵ Eldershaw simply stated

⁸³ Summers, *Damned Whores*, pp.274-275 cf. Charlotte Macdonald, *A Woman of Good Character*, Wellington, 1990, p.133: it was common for settlers or intending settlers to marry just before embarking or not long after disembarking.

⁸⁴ Maureen Langan-Egan, 'Women in Mayo, 1821-1851', M.Ed., National University of Ireland, Galway, 1986, p.72: nearly 34% of widows in County Mayo, in 1851, were in public institutions. See also Maria Luddy, *Women in Ireland, 1800-1918: A Documentary History*, Cork, p.48: and Rushen, 'Free, single and female', p.67 on the precariousness of widowed life and limited employment opportunities. Poor Law settlement clauses required many to return to the parish of their late husband, where they might be strangers.

⁸⁵ The issue of permission to marry, generally, has been addressed by Atkinson, 'Convicts and Courtship', pp.19-31; and Aveling, 'She only married to be free', pp.119-133. See also *Push from the Bush*, No.2, November 1978.

that the marriage of convicts was strictly controlled, and depended upon proof that the husband was not already married and was in a position to provide for a family.⁸⁶

The process for applying for applications was specific, legislatively-controlled and public. Permission from the Lieutenant-Governor was sought on printed forms, which, when granted, were sent by applicants to the officiating clergyman informing him that approval had been granted and requesting him to notify the Comptroller-General whether the marriage had been celebrated. The convict received a copy informing him or her that the marriage had been approved, indicating that the memorial had been forwarded to the clergyman, and instructing the clergyman to forward the certificates of marriage immediately after the ceremony. The applications were recorded in registers, which commenced in 1834 and continued to 1857. The name and condition of both parties, and ship if a convict, the Lieutenant-Governor's decision, and sometimes the date and particulars of the marriage, were recorded.⁸⁷ Because the name of the ship was recorded, it is relatively easy to track those women who applied for permission to marry.

Legislation regulating permission to marry changed at various times. In Van Diemen's Land, in the 1820s, as part of his administrative changes, Governor Arthur was responsible for fine-tuning regulations relating to convict marriage. In 1843, the Act was repealed and the new Act specified that one of the parties to the marriage had

⁸⁶ P.R. Eldershaw, *Guide to the Public Records of Tasmania. Section Three. Convict Department Record Group*, Hobart, 1965, p.37.

⁸⁷ Eldershaw, *Convict Department*, p.37.

to make an affidavit stating that both parties to the marriage were free. Where one or both of the parties were under sentence of transportation, the affidavit was to include the consent of the Lieutenant-Governor, as communicated by the Principal Superintendent of Convicts. No marriage of a convict was to take place until the intended marriage, with the names and residence of both parties, was notified in three successive gazettes by the Principal Superintendent of Convicts.⁸⁸

Applications for permission to marry represent an intersection between the Church and the State, and legal/penal systems. Convict marriage was seen as a reward for reformation as well as a means to reformation. It was not simply an agreement between two people, or their families.

Breaches of the permission to marry regulations were punishable as a felony, and could incur a fourteen year transportation sentence.⁸⁹ Not only were breaches punishable but permission to marry, and marriages, could also be revoked. The revocation was noted on the woman's conduct record, usually without explanation.⁹⁰

⁸⁸ 6 Vict. No.16 sections II and VIII *An Act to repeal an Act passed in the Sixth Year of the Reign of Her present Majesty and to amend the said last mentioned Act* [6 Vic. No.18 sec VIII.] The repealed act was 6 Vict.No.16 Franklin. The first list was published in the *Hobart Town Gazette* 17 February 1843 p.158.

⁸⁹ AOT, CON 41/36 Elizabeth Brongal *Midlothian* 1853 No.1211: she was sentenced to three months' hard labour for misconduct in marrying without permission.

⁹⁰ One Irish female arsonist to have permission revoked was Ellen Hanrahan (or Haurahan) who applied to marry Thomas Ogden. Approved on 24 June 1854, permission was revoked a week later: see AOT, CON 41/30 Ellen Haurahan *Blackfriar* 1851 No.893; AOT, CON 52/7 p.344: Haurahan/Ogden. Mary Connors 1st alias Donovan and Robert Jones were granted permission to marry on 6 February 1855. On 20 February 1855, it was cancelled. No reason was stated on her conduct record. The *Hobart Town Gazette* of 20 February 1855 simply noted that the Governor was pleased to cancel the approval of marriage of Robert Jones, T.L., *Lady Montagu*, residing at Sorell, and

One of those to have her marriage revoked was deliberate arsonist Jane Hyland, who arrived on the *Lord Auckland* in 1849. Her conduct record noted that her marriage to Michael 'Renehan' was revoked on 17 January 1854.⁹¹ This may have been because the couple had not sought permission to marry but the evidence is not clear. It may also have been because the marriage was bigamous.⁹² The couple had married on 16 January 1854 in St Joseph's Roman Catholic Church, Launceston.⁹³

However, some women under sentence appear to have married without seeking permission and suffered no repercussions. It may simply be that there was an administrative oversight and that the permission was not entered in the application for permission to marry register.⁹⁴ One deliberate arsonist who does not appear to have sought permission to marry, and yet was not punished, was Julia McCarthy, who

Mary Connors, T.L. *Earl Grey* residing at Hobart Town. However, the application may have been revoked because there was some confusion of names: Mary Connors and 'Frederick' Jones were married on 11 February 1856. Furthermore, the conduct record of Robert Jones *Lady Montagu* noted that he was tried in the Supreme Court Hobart Town as Frederick Jones. See AOT, CON 41/26 Mary Connors 1st alias Donovan *Earl Grey* 1850 No.1053; AOT, CON 52/7 p.222 Connor/Jones; AOT, RGD 37/15 1856 Hobart No.185: Connors/Jones.

⁹¹ AOT, CON 41/20 Jane Hyland *Lord Auckland* (3) 1849 No.749.

⁹² Renehan was the husband of deliberate arsonist Margaret Butler: AOT, CON 41/26 Margaret Butler *Earl Grey* 1850 No.1048. Margaret Butler married later that year but first applied for permission to marry in October 1853: AOT, RGD 37/13 1854 Campbell Town No.94: Butler/Gillam (24 April 1854); AOT, CON 52/6, CON 52/7 p.284; CON 52/7 p.152. See also AOT, CON 33/75 Michael Renihan *Samuel Boddington* 1846 No.17589. For information about Renihan, a Waterford larcenist, see Richard Davis, ' "Not So Bad as a Bad Marriage" Irish Transportation Policies in the 1840s', in *THRAPP*, Vol.47, No.1, March 2000, pp.9-64.

⁹³ AOT, RGD 37/13 1854 Launceston No.996: Hyland/Renehan (16 January 1854).

⁹⁴ Arsonist Mary Roche held a ticket-of-leave when she married Thomas Taylor in 1852; the marriage was noted on her conduct record but does not appear in the AOT *Convict Permission to Marry Index*. It was, however, published in the *Hobart Town Gazette* 28 September 1852 p.785: approved 20 September 1852. See also AOT, CON 41/22 Mary Roche (proper name Finn) *Maria* (2) 1849 No.490; RGD 37/11 1852 Hobart No.717: Roach/Taylor.

married William Oliver in March 1853, three months before her conditional pardon was approved.⁹⁵

Not all of those who applied for permission to marry actually married. Sometimes permission was refused, often for technical or administrative reasons, but in many cases no reason for refusal was stated. Most of those who had unsuccessful applications were not deterred and later applied to marry someone else. Deliberate arsonist Mary Madigan, for example, and John Slater, 'free', applied for permission to marry in March 1850.⁹⁶ However, the day after the application, Mary was sentenced to six weeks' hard labour in the Launceston Female Factory for being absent without leave. In June 1850, Mary and William Hutchins, a convict by the *Emerald Isle*, applied for permission to marry; they married the following year.⁹⁷

Some women applied for permission to marry several times, sometimes to different people, others to the same person. Those women who made multiple applications – to different men, in quick succession – have generally been seen as being pragmatic and

⁹⁵ AOT, CON 41/22 Julia McCarthy *Maria* (2) 1849 No.983; AOT, RGD 37/12 1853 Hobart No.290: Macarty/Oliver (7 March 1853). See also AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682. There are many similar examples among the arsonists generally: see, for example, AOT, CON 41/28 Anne Quinn *Duke of Cornwall* 1850 No.38; AOT, CON 41/28 Mary Valance *Duke of Cornwall* 1850 No.39; AOT, CON 41/30 Eleanor Lyons *Blackfriar* 1851 No.494; AOT, CON 41/30 Ellen Quinn *Blackfriar* 1851 No.39; AOT, CON 41/30 Ann Byrne *Lord Auckland* 1849 No.948; AOT, CON 41/30 Ann Reilly *Lord Auckland* (3) 1849 No.476.

⁹⁶ AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903; AOT, CON 52/3 p.411: Madigan/Slater.

⁹⁷ AOT, CON 52/3 p.215: Madigan/Hutchins; AOT, RGD 37/10 1851 Launceston No.807: Madigan/Hutchins (2 January 1851). The delay in the marriage was possibly because Mary spent 3 months in the Launceston Female Factory for disobedience of orders and insolence.

prudent.⁹⁸ Those who applied several times to marry the same man have been viewed as persistent and not intimidated by authority.⁹⁹ One of the most persistent couples was Catherine Hayes and Patrick Handley. They applied for permission to marry five times: on 21 February 1854; 9 May 1854; 6 September 1854; 23 October 1854; and 9 October 1855.¹⁰⁰ They finally married on 30 October 1855 in St George's Church of England, Hobart. At the time of her arrival, Catherine Hayes stated that she was married, but at the time of her marriage she was recorded as a widow.¹⁰¹ Ellen Farrell and William Watson were also persistent in seeking permission to marry.¹⁰² They applied four times: on 20 June 1853; 29 July 1853; 31 January 1854; and 25 October 1854, before finally marrying on 20 November 1854 in St George's Church of England, Hobart.¹⁰³

A slightly different pattern of persistence is demonstrated by the case of Mary Ann Williams and George Curran, who applied for permission to marry on 24 March 1853 (recommended 30 March 1853). Although recommended, the marriage did not take place and George Curran applied for permission to marry another woman in May 1853. This was refused, and George Curran and Mary Ann Williams again applied for

⁹⁸ Atkinson, 'Convicts and Courtship', pp.25-27; Kay Daniels, *Convict Women*, St. Leonards, 1998, p.231.

⁹⁹ Daniels, *Convict Women*, p.231.

¹⁰⁰ AOT, CON 52/7 p.175, 176, 179, 183: Hayes/Handley.

¹⁰¹ AOT, RGD 37/14 1855 Hobart No.364: Hayes/Handley (30 October 1855).

¹⁰² AOT, CON 41/20 Ellen Farrell *Lord Auckland* (3) 1849 No.40; AOT, CON 33/80 William Watson *David Malcolm* 1845 No.18682.

¹⁰³ AOT, CON 52/6 (20 June 1853): 'recommended 22 June 1853, must serve 6 months etc'; AOT, CON 52/6 (29 July 1853): 'Must serve six months from expiration of last sentence'; AOT, CON 52/7 p.523 (31 January 1854): no reason stated; AOT, CON 52/7 p.528 (25 October 1854): Farrell/Watson; AOT, RGD 37/13 1854 Hobart No.485: Farrell/Watson.

permission to marry on 25 October 1853. Approval was again recommended, on 29 October 1853, and the couple married on 21 November 1853.¹⁰⁴

One of the most intriguing examples of a married woman applying to marry is that of Margaret Butler, who arrived on the *Earl Grey* in 1850. A twenty-four-year-old country servant when she arrived, Margaret Butler stated that her husband, Renehan, was 'a convict five years since, tried at Waterford for seven years'.¹⁰⁵ He was, in fact, in Van Diemen's Land when she arrived. This did not prevent Margaret Butler applying to marry someone else in the colony – several times until the application was finally successful. Margaret Butler and James Gillam, free, applied for permission to marry three times: 18 October 1853; 11 February 1854; and 17 March 1854. Their application was finally recommended on 29 March 1854, presumably because the couple were at last able to satisfy the requirements of the clergyman.¹⁰⁶ They were married less than a month later, on 24 April 1854, in the Roman Catholic Church at Ross.¹⁰⁷

Not all women sought permission to marry before they served their sentence. For fourteen of the deliberate arsonists, no record of permission to marry could be located.¹⁰⁸ Some of those who did not seek permission to marry were already married

¹⁰⁴ AOT, CON 52/6: Williams/Curran (24 March 1856); CON 52/6 Connor/Curran (27 May 1853); CON 52/6: Williams/Curran (25 October 1853). The marriage was also noted on Williams' conduct record: see CON 41/33 Mary Ann Williams *John William Dare* 1852 No.950.

¹⁰⁵ AOT, CON 41/26 and CON 15/6 Margaret Butler *Earl Grey* 1850 No.1048.

¹⁰⁶ AOT, CON 52/6; CON 52/7 p.284 (McGillam); CON 52/7 p.152.

¹⁰⁷ AOT, RGD 37/13 1854 Campbell Town No.94: Butler/Gillam.

¹⁰⁸ See Appendix Four: No record of permission to marry.

when they arrived. As already noted, being married, in itself, was not a disincentive. For some, there are obvious explanations why they did not seek permission to marry. Alice Collins, a twenty-two-year-old country servant, was reunited with her convict husband, Denis Collins, in Van Diemen's Land.¹⁰⁹ Eight of the deliberate arsonists either died shortly after arriving in the colony,¹¹⁰ or were institutionalised.¹¹¹ Quite likely, this explains why they did not apply for permission to marry.

Some deliberate arsonists may have formed *de facto* relationships. In these cases, it is difficult to say whether a change of surname indicated a new relationship or simply a change of name.¹¹² Others may have married after they served their sentence. Such marriages are often difficult to trace because the ship's name is not attached to the woman's name. Common names and spelling variations complicate the search. The failure to trace applications for permission to marry may partly be attributed to complications caused by variations in the spelling of names and the use of different names. For example, deliberate arsonist, Margaret Leggitt, who arrived on the *Earl*

¹⁰⁹ AOT, CON 41/26 and CON 15/6 Alice Collins *Earl Grey* 1850 No.1068.

¹¹⁰ See, for example, AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356; CON 41/30 Jane Allen *Blackfriar* 1851 No.272; and CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484. Mary Crowley possibly also falls into this category: see AOT, CON 41/24 Mary Crowley *Australasia* 1849 No.1030 and CON 63/2.

¹¹¹ AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. See also AOT, RGD 35/41 1872 New Norfolk No.337: Mary Nowlan.

¹¹² AOT, CON 41/28 Ellen Cotter *Duke of Cornwall* 1850 No.1104: Irish female arsonist Ellen Cotter, for example, did not seek permission to marry and there is no indication that she later married. However, according to her conduct record, she was tried in the Supreme Court Hobart as Ellen Williams, with attempt to commit arson; she was discharged by proclamation. Her last years were spent in difficult circumstances: she was sent to the Colonial Hospital on Convict Funds in 1861, and was removed to the Cascade Invalid Depot because she was blind. She was still there on 14 November 1864, but, on 20 January 1865, in Hobart, she was charged with being idle and disorderly and was given one month's hard labour. There is no evidence that she married.

of particular significance for the deliberate arsonists: of those for whom the native place of the husband has been located, although many married Irish-born men, more married men from England.¹¹⁶ Only two married a Scottish-born husband: Susan Chickley married Hugh Fairley from Edinburgh, and Margaret Bourke married James Smith from Leith.¹¹⁷

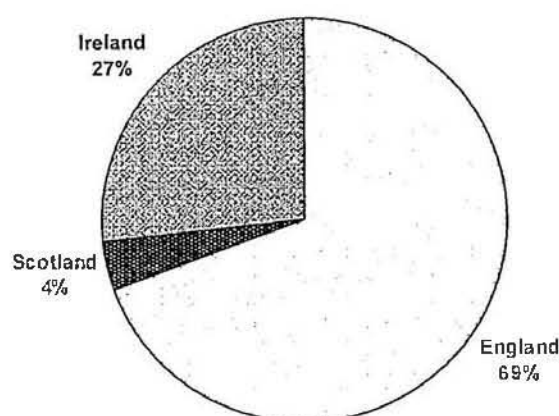


Figure 33: Native place of the husbands of deliberate arsonists [n=49].

Three of the women married men from the same county of origin as themselves: Mary Paid and Patrick Cleary were from Kilkenny,¹¹⁸ Allie Griffith and William

¹¹⁶ cf. Foley and Guinnane, 'Irish Marriage Patterns', p.19: Irish people in the US often married members of other immigrant groups.

¹¹⁷ AOT, RGD 37/11 1852 Brighton No.34: Chirkley/Fairley (22 May 1852); AOT, CON 33/95 and CON 14/33 Hugh Fairley *Blenheim* (3) 1850 No.22140; AOT, RGD 37/13 1854 Brighton No.52: Bourke/Smith (14 June 1854); AOT, CON 33/99 and CON 14/41 James Smith *Rodney* (1) 1850 No.23432.

¹¹⁸ AOT, RGD 37/11 1852 New Norfolk No.1176: Peard/Cleary (15 January 1852); AOT, CON 41/20 and CON 15/5 Mary Paid *Lord Auckland* (3) 1849 No.391; AOT, CON 33/92 and CON 14/39 Patrick Cleary *Pestongee Bomangee* (3) 1849 No.21158.

Ryan were from Tipperary,¹¹⁹ as were Ellen Ryan and John Dwyer.¹²⁰ But there is no evidence that either partner knew each other before transportation or that they deliberately sought out a spouse from the same county.¹²¹ As already noted, selection of a marriage partner, up to a point, was limited by the availability of potential spouses. In Van Diemen's Land, because of the demography, marriage between different nationalities was common. There is no evidence to suggest that this made any difference to the stability or outcome of the marriage.

Religion of husbands

Religion was routinely recorded on a convict's arrival in Van Diemen's Land. As already noted, 92 per cent of the deliberate arsonists were Roman Catholic.¹²² Inevitably, because of the demography of Van Diemen's Land, many married Protestant men. This is demonstrated in Figure 34. There is no evidence to suggest that the women particularly sought out Roman Catholic husbands.¹²³ Nor is there any evidence to suggest that marrying into another religion affected the stability or strength of the marriage.¹²⁴

¹¹⁹ AOT, RGD 37/13 1854 Hobart No.660: Griffiths/Ryan (6 March 1854); AOT, CON 41/35 and CON 15/7 Alice Griffith *Martin Luther* No.600; AOT, CON 33/104 and CON 14/42 William Ryan *Blenheim* (4) 1851 No.24870.

¹²⁰ AOT, CON 52/7 p.91: Ryan/Dwyer (20 May 1854); CON 41/36 and CON 15/8 Ellen Ryan *Midlothian* 1853 No.629; AOT, CON 33/100 and CON 14/43 John Dwyer *Hyderabad* (3) 1850 No.23571.

¹²¹ All three had only one application to marry.

¹²² See Figure 32.

¹²³ This is consistent with immigrant studies such as McConville, 'The Victorian Irish', which discovered that, in the 1850s, between 1 in 3 and 1 in 2 Irish Catholic women appeared to marry in non-Catholic churches. In Catholic churches, 1 in 3 Irish Catholic women married non-Catholic husbands.

¹²⁴ Morgan, 'This Land of Plenty', pp.89-90: Morgan tentatively suggested on the basis of a small sample from a study of divorce petitions in Victoria that 'mixed-marriages' (between different nationalities) were more likely to break down than those of other couples. How much this may have

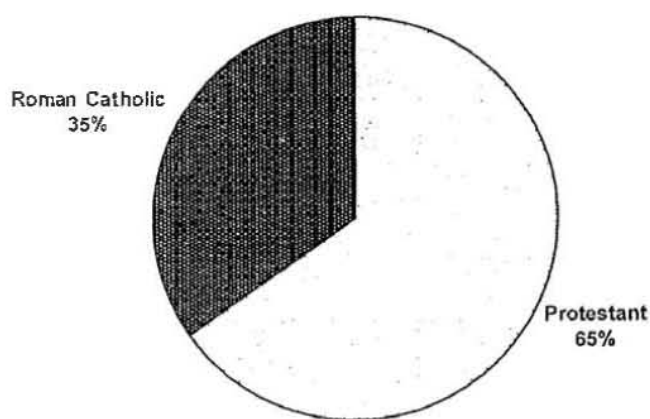


Figure 34: Religion of the husbands of deliberate arsonists [n=26].

Choice of church for marriage

As depicted in Figure 35, the majority of deliberate arsonists – 69 per cent – married in a Protestant church. Many of the women, who stated that they were Roman Catholic on arrival, did not marry according to the rites of the Roman Catholic Church. In the earliest years of colonial settlement, Catholic marriage was not possible; the Church of England was the established church.¹²⁵

been due to religious difference is difficult to determine, as divorce petitions do not usually record religion.

¹²⁵ There was a brief period of toleration by Governor King. See Robinson, *Hatch and Brood*, pp.17, 76: 'Those women who chose not to be married by a Church of England clergyman had no choice but to remain legally unmarried'. She also asserted that since most of the women were Irish countrywomen, accustomed to the influence and direction of their parish priest, many would have considered it a far worse sin to be married by Marsden than to live together. See also C.H. Currey, 'The Law of Marriage and Divorce in New South Wales (1788-1858)', *JRAHS*, Vol.XII, Part 3, 1955, pp.97-114.

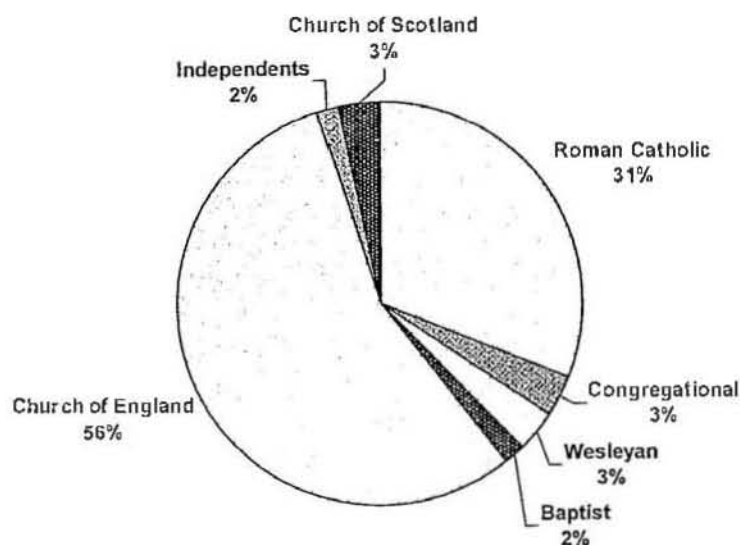


Figure 35: Church married in by religion for the deliberate arsonists [n=61].

By the late 1840s, when the deliberate arsonists began to arrive in Van Diemen's Land, the Catholic Church had been established for some time.¹²⁶ Nevertheless, in some areas of Van Diemen's Land, Roman Catholic clergy were itinerant or non-existent. In country areas such as Bothwell, there was no Catholic church.¹²⁷ This

¹²⁶ Anne-Maree Whitaker, 'The convict priests: Irish Catholicism in early colonial New South Wales' in O'Sullivan (ed.), *Religion and Identity*, pp.25-42: the denial of religious freedom to Catholics was documented by Father Therry. See John Williams, 'Irish Convicts in Tasmania', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.28. See also John H. Cullen, *The Catholic Church in Tasmania*, Launceston, 1949. St Joseph's Church, in Hobart, opened on Christmas Day 1841.

¹²⁷ Shauna Ellis (ed.), *Bothwell Revisited. A History: Foundation Federation and the Millennium*, Bothwell, 2001, pp.123-124; W.T. Southerwood, 'The Country Parishes', *Planting a Faith in Tasmania*, Hobart, 1977. There was no Catholic Church at Bothwell until 1864, although visiting priests from other parishes celebrated mass at least from 1856. St Luke's Church of Scotland in Bothwell was established in 1831 and was jointly used by the Church of Scotland and the Church of England until 1891: Ellis, *Bothwell Revisited*, pp.129-130. See also John Mitchel, *Jail Journal*,

may explain the Church of Scotland marriage of Celia Kavanagh and Patrick Hurley in 1855, both of whom were Roman Catholic.¹²⁸ For those deliberate arsonists assigned or living in the country, often the only place to get married was the local Church of England parish church.¹²⁹ Marriage in other Protestant churches in country areas was less common.¹³⁰ Nonetheless, some of those who married in country areas were married according to the rites of the Roman Catholic Church: Mary Paid and Patrick Cleary, both Roman Catholic and from Kilkenny, married in the Catholic Chapel at New Norfolk.¹³¹ Other deliberate arsonists were married in Roman Catholic churches in Oatlands, Pittwater, and Ross.¹³²

Dublin 1854 p.229: Bothwell had four large public houses which had 'much larger congregations than the church'.

¹²⁸ AOT, RGD 37/14 1855 Bothwell No.15: Cavanagh/Hurley (1 October 1855); AOT, CON 41/26 and CON 15/16 Celia Kavanagh *Earl Grey* 1849 No.383; AOT, CON 33/109 and CON 14/45 Patrick Hurley *Lord Dalhousie* No.26209. Mary Donovan and John Millar also married in this church in 1853; Mary Donovan was Roman Catholic but John Millar's religion is not known: see AOT, RGD 37/12 1853 Bothwell No.2: Donovan/Millar (7 February 1853).

¹²⁹ These churches included Avoca: AOT, RGD 37/11 1852 Fingal No.84: Fleming/Styles (13 January 1852); St Luke's, Campbell Town: AOT, RGD 37/12 1853 Campbell Town No.68: Daley/Cowley (14 February 1853); St Andrew's, Carrick: AOT, RGD 37/13 1854 Longford No.1139: Kilnem/Stroud (31 July 1854); Evandale: AOT, RGD 37/12 1853 Morven No.1278: Behan/Holland (4 April 1853); Franklin Village: AOT, RGD 37/12 1853 Longford No.1242: Mahoney/Bishop (2 March 1853); St Mary the Virgin, Macquarie Plains: AOT, RGD 37/9 1850 Hamilton No.112: Connor/Raymond (26 November 1850) and AOT, RGD 37/12 1853 New Norfolk No.1331: Duggan/Lynch (15 August 1853); Oatlands: AOT, RGD 37/12 1853 Oatlands No.1365: Murphy/Blag or Blay (14 February 1853) and AOT, RGD 37/16 1857 Oatlands No.778: Foley/Snell (18 May 1857); and the Chapel of St John the Baptist, Ouse: AOT, RGD 37/10 1851 Hamilton No.120: Walsh/White (5 May 1851).

¹³⁰ The Green Ponds Congregational Church was used by two couples. Both grooms were Scottish-born; one (James Smith) gave his religion as Presbyterian on arrival: see AOT, RGD 37/11 1852 Brighton No.34: Chirkley/Fairley (22 May 1852); AOT, RGD 37/13 1854 Brighton No.52: Bourke/Smith (14 June 1854); AOT, CON 33/99 and CON 14/41 James Smith *Rodney* (1) No.23432.

¹³¹ AOT, RGD 37/11 1852 New Norfolk No.1176: Peard/Cleary (15 January 1852); AOT, CON 41/20 and CON 15/5 Mary Paid *Lord Auckland* (3) 1849 No.391; AOT, CON 33/92 and CON 14/39 Patrick Cleary *Pestonjee Bomangee* (3) 1849 No.21158.

¹³² AOT, RGD 37/33 1874 Oatlands No.597: Moy/Thrower; RGD 37/10 1851 Richmond No.964: Jones/Smith; RGD 37/13 1854 Campbell Town No.94: Butler/Gillam.

It is sometimes assumed that many Catholic couples chose not to marry rather than be married by a Protestant minister – that it was deemed worse for a Catholic to be married by a ‘heretic’ priest of the Protestant faith rather than to ‘live in sin’.¹³³ There is no evidence to suggest that the deliberate arsonists who did not marry did so for this reason.

The reason why so many of the deliberate arsonists married in Protestant churches is much more complex than access and availability to a Catholic church. In Van Diemen’s Land, marriage was not simply a religious ceremony. Williams referred to conflict over who should conduct the marriage service when one of the parties was a convict.¹³⁴ Many convict marriages took place in St George’s Church of England, Hobart, where often several couples were married on one day.¹³⁵ Certainly, at least eight of the deliberate arsonists – including Catherine Hayes and Ellen Farrell, who made multiple applications for permission to marry – were married in this church by Church of England Minister H.P. Fry, a vigorous ‘anti-Roman’ campaigner but sympathetic to the needs of the convict poor.¹³⁶ Evidence suggests that Fry encouraged convict marriage in his church,¹³⁷ and it may have been easier to get

¹³³ See Robinson, *Hatch and Brood*, pp.17, 76.

¹³⁴ Williams, *Ordered to the Island*, p.146.

¹³⁵ On 30 May 1853, ten couples were married at St George’s Church, Hobart, including arsonist Bridget Stapleton *John William Dare* and George Danton, an emancipated convict who arrived on the *Lord William Bentinck*. See AOT, RGD 37/12 1853 Hobart No.382: Stapleton/Danton.

¹³⁶ At least eight of the deliberate arsonists were married by Fry: AOT, RGD 37/10 1851 Hobart No.275: Murphy/Dickenson (25 August 1851); AOT, RGD 37/12 1853 No.289: Manning/Leathley (7 March 1853); AOT, RGD 37/12 1853 Hobart No.461: McNamara/James (29 August 1853); AOT, RGD 37/13 1854 Hobart No.315: Sullivan/Cheshire (28 February 1854); AOT, RGD 37/13 1854 Hobart No.329: Neil/Bradbury (20 March 1854); AOT, RGD 37/14 1855 Hobart No.236: Tobin/Moy (19 February 1855); AOT, RGD 37/14 1855 Hobart No.364: Hayes/Hanley (30 October 1855).

¹³⁷ For Fry, see *ADB*, Vol.1 p.420.

married there, although this is difficult to substantiate. Although most of the deliberate arsonists married by Fry married Protestant men, baptism and burial records indicate that several of the deliberate arsonists retained their Catholicism after marriage. Many of their children, for example, were baptised into the Catholic Church, including St Joseph's Catholic Church, Hobart.¹³⁸ Burial records, too, indicate that at least some family members were considered Catholic when they died.¹³⁹

It was not just women married by Fry who conformed to this pattern. Margaret Leary and James Nicholls were married in St George's Church of England by Rev. F. Brownrigg in 1849.¹⁴⁰ Both James and Margaret Leary (Nicholls) were buried in the Roman Catholic section of the Cornelian Bay Cemetery, James in 1895 and Margaret in 1901.¹⁴¹ This pattern of Protestant marriage in an otherwise Catholic life suggests

¹³⁸ See, for example, the children of Mary (Neill) Bradbury; Alice (Tobin) Moy; Catherine (Hayes) Handley; Mary (McCarthy) Rogers, were all baptised at St Joseph's Roman Catholic Church, Hobart: see AOT, NS 1052/8 St Joseph's Roman Catholic Church, Hobart, Baptism Register p.209 (Rogers); (1856) p.306 (Moy); (1856) p.318 (Handley); (1858) p.322 (Rogers). Catherine (Mannon) Leathley's children were baptised Catholic: AOT, SWD 26/9. The only son of Margaret (McNamara) James was baptised Catholic in the Huon: Joyce Purtscher (comp.), *Father John Murphy's 'Saddlebag' Records. Catholic Baptism Huon District 1855-1864*, Mt. Stuart (Tas.), 1999, np.

¹³⁹ Catherine (Hayes) Handley and her daughter, Margaret, were buried in the Roman Catholic section at Cornelian Bay cemetery: AOT, NS 1052/8 (1856) p.318: St Joseph's Roman Catholic Church, Hobart, Baptism Register; SRCT, Record ID 8530, RC, Section E, Site No.24: Catherine Hanley; SRCT, Record ID 38141, RC, Section 6, Site No.68. Family of Joanna (Sullivan) Chesshire were buried in the Roman Catholic cemetery at Fingal: AOT *Correspondence File*: 'Henry J. Chesshire'; sons William and John (and his daughter) were buried in the Catholic Cemetery at Fingal; AOT, RGD 35/57 1888 Fingal No.257: William Chesshire, AOT, RGD 35/66 1897 Fingal No.249: John Chesshire. Ellen (Murphy) Dickenson's spinster daughter was buried in the Roman Catholic Section of the Melbourne General cemetery: see Victorian Death Certificate 1873/6822: Margaret Dickenson.

¹⁴⁰ AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls (5 November 1849). There were three other marriages on this day.

¹⁴¹ AOT, RGD 35/15 1895 Hobart No.288: James Nicholls; SRCT, Record ID 10357, RC, Section D, Site No.74: James Nicholls; Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nicholls; SRCT IB, 12936 30/11/1901 RC D 74: Margaret Nichols.

that, to the deliberate arsonists, the church chosen for marriage was less significant than the marriage itself. Perhaps, as Hogan and Grocott suggested, this was indicative of an irreligious era.¹⁴² On the other hand, it also demonstrates Jalland's distinction between faith and religious observance.¹⁴³

The choice of church may not solely have been on religious grounds, as the case of Mary Prendergast illustrates. Mary married three times. Her first marriage, in May 1853, was to Thomas Galligan, a forty-year-old Irish Roman Catholic labourer, in St Joseph's Roman Catholic Church, Hobart, by banns.¹⁴⁴ The marriage was short-lived: Galligan died ten days later.¹⁴⁵ Seven months later, his widow married another Roman Catholic Irishman, sawyer Luke Walsh, also in St Joseph's Church.¹⁴⁶ In November 1855, just before their second wedding anniversary, and with Mary pregnant with their second child, Luke 'Welsh' accidentally shot himself.¹⁴⁷ In September 1860, when Mary married for the third time, to farmer John Perry, she married in St George's Church of England, Hobart.¹⁴⁸ By this time, she had two

¹⁴² Michael Hogan, *The Sectarian Strand. Religion in Australian History*, Ringwood, 1987, p.19; Allan M. Grocott, *Convicts, Clergymen and Churches. Attitudes of Convicts and Ex-convicts Towards the Churches and Clergy in New South Wales from 1788 to 1851*, Sydney, 1980, p.281.

¹⁴³ Pat Jalland, *Australian Ways of Death. A Social and Cultural History 1840-1918*, South Melbourne, 2002, pp.33-34.

¹⁴⁴ AOT, RGD 37/12 1853 Hobart No.718: 'Prendergast'/Galligan; AOT, CON 33/69 Thomas Galligan *Ratcliffe* (1) 1845 No.16167.

¹⁴⁵ TAMIOT, HU01/00039: Franklin St John's Anglican Cemetery: Thomas 'Galligan'.

¹⁴⁶ AOT, RGD 37/12 1853 Hobart No.834: 'Prendergast'/Walsh (12 December 1853); AOT, CON 33/69 Luke Walsh *Ratcliffe* (1) 1845 No.16307. He was a shipmate of Prendergast's first husband, Galligan: see AOT, RGD 35/5 1856 Hobart No.535: Luke 'Welsh'.

¹⁴⁷ AOT, RGD 35/5 1856 Hobart No.535: Luke 'Welsh'; AOT, SC 195/37 Inquest No.3631 20 November 1855: Luke 'Welsh'; Mercury 23 November 1855 p.2 col.6.

¹⁴⁸ AOT, RGD 37/19 1860 Hobart No.159: Perry/Welch. They were married by G. Blacksmith.

cases both were Irish but there were at least two marriages where the Roman Catholic groom was English: Eliza Roche married Peter Johnson, from Manchester,¹⁵⁴ and Ellen Quirk married Charles Silvester, from London.¹⁵⁵ As well, many Protestant grooms married in a Roman Catholic Church: in Hobart, at St Joseph's, these included Mary Sullivan and Samuel Thickers,¹⁵⁶ and Mary Fielding and Samuel Worthington.¹⁵⁷ Others married in St Joseph's Roman Catholic Church in Launceston, including Jane Hyland and Michael Renihan, whose 1854 marriage was almost immediately revoked, and Ellen Wiseman and Reuben Cousins, who had been married thirty-two years when Reuben died in 1886.¹⁵⁸

There is no evidence of civil marriage among the deliberate arsonists, although at least one was married in a private house in a religious service.¹⁵⁹ Overall, the choice of church seems to have been dictated by circumstance and convenience rather than religious belief.

Colonial marriage patterns: age at marriage

For most of the deliberate arsonists, as shown in Figure 36, their first colonial marriage took place when they were in their early twenties. This is slightly earlier than shown in other studies such as that done by Belcher, who calculated that the

¹⁵⁴ AOT, RGD 37/11 1853 Hobart No.688: Roach/Johnson (21 March 1853).

¹⁵⁵ AOT, RGD 37/16 1857 Hobart No.442: Quirk/Sylvester (23 March 1857).

¹⁵⁶ AOT, RGD 37/10 1851 Hobart No.533: Sullivan/Thickers (12 May 1851).

¹⁵⁷ AOT, RGD 37/14 1855 Hobart No.694: Fielding/Worthington (10 December 1855).

¹⁵⁸ AOT, RGD 37/13 1854 Launceston No.1001: Wiseman/Cousins (23 January 1854); AOT, RGD 37/13 1854 Launceston No.996: Hyland/Renehan (16 January 1854).

¹⁵⁹ For civil marriage, see P.F. McDonald, *Marriage in Australia*, Canberra, 1975, p.6. Civil marriage was practised in the absence of ministers. For marriage in private houses, see, for example, AOT, RGD 37/11 1852 Brighton No.34: Chirkley/Fairley (22 May 1852).

average age of marriage for all colonial women was 23 years, with colonial-born women marrying at an average of 17 years, emancipist women at 26, an average of three years after arrival, and immigrant women at an average age of 22.5 years.¹⁶⁰

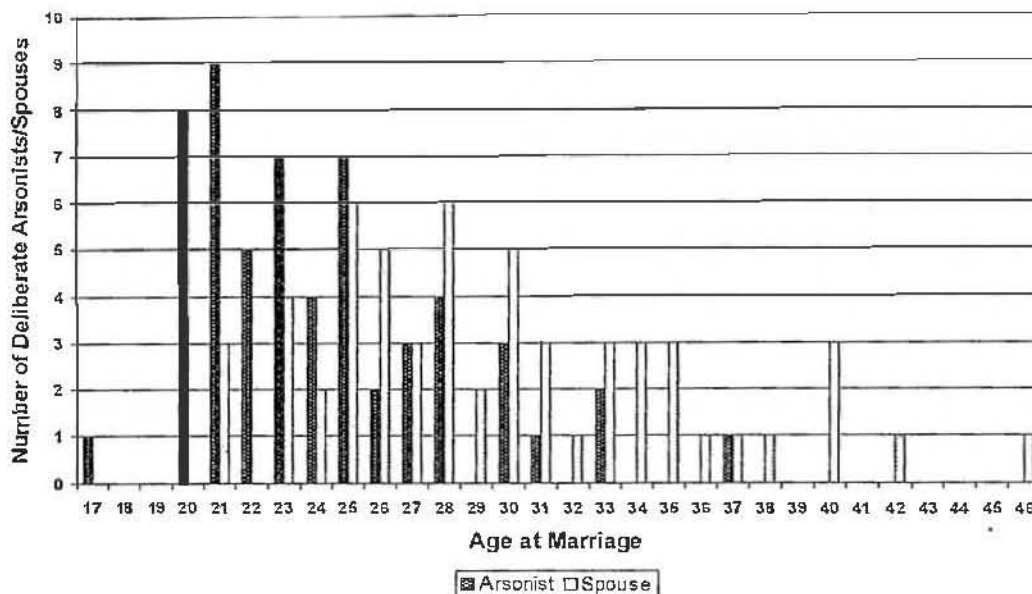


Figure 36: Age of deliberate arsonists and their spouses at first colonial marriage [n=57].

Other studies have concentrated on the average age at marriage of immigrant women. Rushen, for example, examined over 1,000 colonial marriages of immigrant women. Working from data compiled from first marriages, she determined that over half the women married between 20 and 25 years. Irishwomen, with an average first-marriage age of 22.8 years, married slightly younger than Englishwomen, whose average was 23.4 years.¹⁶¹ Foley and Guinnane's study of Irish immigrants

¹⁶⁰ M.J. Belcher, 'The Child in New South Wales Society: 1820-1837', unpublished Ph.D. Thesis, University of New England, 1982, pp.158-163.

¹⁶¹ Rushen, 'Free, single and female', p.207 Tables 10.6 and 10.7.

established that Irish people in Ireland and the United States married later in life than people in other places. This difference, however, was not extreme: 'The Irish were different, not bizarre.'¹⁶² Comparing the average age of convict women and immigrant women, in one sense, is a false comparison because the age that convict women married was governed by external factors such as convict regulations. As well, there were many discrepancies in recorded ages, although this was not limited to convicts.¹⁶³ Nevertheless, as demonstrated in Figure 36, the deliberate arsonists conformed to the general trend of marriage: that is, first marriage in the early twenties.

Ages for second and third marriages varied. At least five married more than once. Two of the women married three times: Catharine Conway's second marriage took place when she was twenty-four and her third when she was forty-one.¹⁶⁴ At the time of her second marriage, Mary Prendgast was twenty-four; she was thirty when she married for the third time.¹⁶⁵ Susan Chickley and Bridget Dooling were both thirty-one,¹⁶⁶ and Alice Tobin was forty-two,¹⁶⁷ when they married for a second time.

¹⁶² Foley and Guinnane, 'Irish Marriage Patterns', pp.29-30.

¹⁶³ See, for example, arsonist Sarah Burke, appears to have adjusted her age to better match a younger groom. According to her convict records, she was 30 when she arrived on the *Australasia* in 1849. In 1852, when she married 24-year-old blacksmith, Thomas Dukes, her age was recorded as 27: AOT, CON 41/24 and CON 15/6 Sarah Burke *Australasia* 1849 No.999; AOT, RGD 37/11 1852 Hobart No.229: 'Burks'/Dukes (2 February 1852).

¹⁶⁴ AOT, RGD 37/13 1854 Hobart No.368: Conway/Poole (22 May 1854); AOT, RGD 37/32 1873 Green Ponds No.136: Poole/Hunter (13 October 1873).

¹⁶⁵ AOT, RGD 37/12 1853 Hobart No.834: Pendergast/Walsh (12 October 1853); AOT, RGD 37/19 1860 Hobart No.159: Perry/Welch (12 September 1860).

¹⁶⁶ AOT, RGD 37/22 1863 Oatlands No.607: Fareley/Merrick (25 May 1863); AOT, RGD 37/24 1865 Hobart No.259: Murphy or Daily/Sullivan (7 January 1865).

¹⁶⁷ AOT, RGD 37/33 1874 Oatlands No.597: Moy/Thrower (19 July 1874).

Colonial marriage patterns: civil status of husbands

As shown in Figure 37, the majority of the deliberate arsonists married fellow convicts, either still serving their sentence or free by servitude or conditional pardon.¹⁶⁸

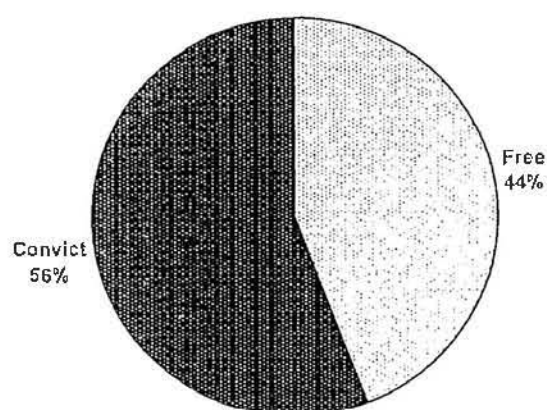


Figure 37: Civil status of husbands of deliberate arsonists at marriage [n=59].

NB: The graph includes only those whose civil status was known.
 'Free' includes emancipists and holders of conditional pardons.

There is no evidence that civil status was an important determinant in the choice of partner. Atkinson suggested that, in convict courtship, there was often very little difference between convict and free: a ticket-of-leave man was 'virtually free' and

¹⁶⁸ For a comparison with NSW and VDL in the 1830s, see Alan Atkinson, 'Marriage and Distance in the Convict Colonies, 1838', *The Push from the Bush: A Bulletin of Early Social History*, No.16, October 1983, pp.64-65.

often had a little capital and a fairly substantial household.¹⁶⁹ Some of the deliberate arsonists initially applied to marry a free man (that is, non-convict or ex-convict) but actually married a convict under sentence: convict Maria Collister and Abraham Davis, free, applied for permission to marry on 30 September 1851.¹⁷⁰ No marriage took place and seven months later Collister married John Kirkpatrick, a thirty-year-old ticket-of-leave holder.¹⁷¹

In the early years of settlement, there was a strong link between marriage and land. Many of the early Irish women convicts married landowners, sometimes quite wealthy, who had benefited from the system of land grants. Many families became established on the land. As in New South Wales, the proximity of landed families (ex-convicts, ex-officials and free settlers) within districts led to intermarriage of sons and daughters from differing civil conditions. Robinson's study of early New South Wales families acknowledged the importance of the children of ex-convicts, ex-officials and free settlers growing up in the same district. She commented: 'It was in this way that the lack of any policy of segregation among those receiving land grants helped to prevent the permanent division of colonial society into a rigid hierarchy of bond and free.'¹⁷² In Tasmania, by the time the deliberate arsonists were transported in the 1840s and 1850s, this was not the case, largely because the system of land allocation had changed. Free land grants ceased after 1831. The issue was

¹⁶⁹ Alan Atkinson, 'Marriage and Distance', p.64.

¹⁷⁰ AOT, CON 52/3 p.120; CON 52/4: Collister/Davis.

¹⁷¹ AOT, RGD 37/11 1852 Launceston No.1037: Collister/Kirkpatrick (19 April 1852).

¹⁷² Robinson, *Hatch and Brood*, p.103.

exacerbated by the replacement of the assignment system by the probation system, and the dominance of the stigma of convictism.

Not surprisingly, given that about 90 per cent of adult males were convicts or ex-convicts,¹⁷³ few of the arsonists married free settlers. A small number possibly married children of convicts. To the deliberate arsonists, then, there is no evidence that fear of convict stigma influenced their choice of partner.

Colonial marriage patterns: occupation of husbands at marriage

As depicted in Figure 38, the majority – 45 per cent – of deliberate arsonists who married, chose men who, at the time of marriage, were described as labourers.¹⁷⁴

Blacksmiths or smiths formed the next largest occupational grouping – 9 per cent – followed by sawyers at 7 per cent. Only one deliberate arsonist married a farmer. Two bridegrooms (not included in Figure 38) gave their occupation as ‘ticket-of-leave holders’, and another as ‘conditional pardon’.

Perhaps the most unusual occupation was that of executioner: Mary Murphy, who arrived in 1849, married Solomon Blay, Hobart’s executioner, in Oatlands in 1853. At the time, Mary Murphy was described as a twenty-four-year-old housemaid, and

¹⁷³ *Statistics of Tasmania* 1847.

¹⁷⁴ Not all had occupations recorded at the time of marriage. Two had no occupation recorded.

'Soloman Blag or Blay', a thirty-three-year-old executioner.¹⁷⁵ The couple appear to have remained together until Mary's death in 1884, a marriage of thirty-one years.¹⁷⁶

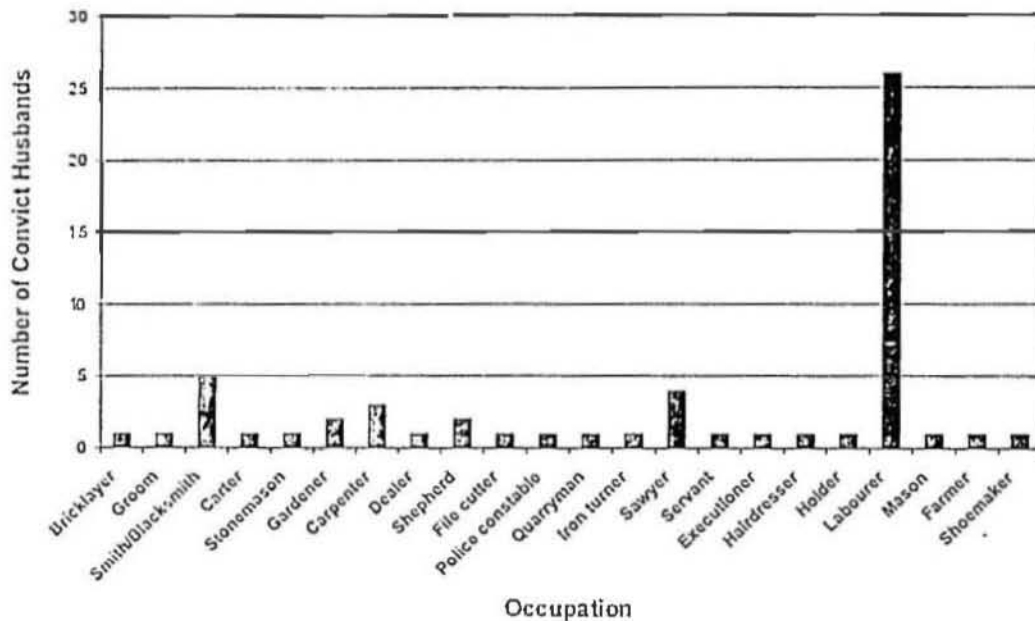


Figure 38: Occupation of husbands of deliberate arsonists at marriage (n=58).

In comparison, from her study of immigrant women, Rushen concluded that the women married men from a wide variety of occupational bands, with the highest number marrying into the skilled trade category. She also found that most of the immigrant women married men from a similar class to their own.¹⁷⁷ This accorded with McConville's finding that Irish women generally chose spouses with similar

¹⁷⁵ AOT, RGD 37/12 1853 Oatlands No.1365: Murphy/Blag or Blay. See also AOT, CON 41/22 Mary Murphy 2nd Maria (2) 1849 No.997.

¹⁷⁶ AOT, RGD 35/10 1884 Hobart No.1736: Mary Blay (17 July 1884). According to her death certificate, she was a dealer's wife. See also AOT, RGD 35/14 1897 Hobart No.1476: Solomon Blay: he was described as a pensioner on his death certificate.

¹⁷⁷ Rushen, 'Free, single and female', p.212.

occupations to their fathers,¹⁷⁸ while Morgan found isolated instances 'of women marrying into a higher social class or into relative prosperity'.¹⁷⁹ Neither McConville nor Morgan interpreted this Irish female disregard for endogamy as indicating a lack of desire to step up the social ladder. It is not possible to do a comparative study based on fathers' occupations for the convict women as this information was rarely recorded.

In a period when class divisions were of paramount importance, occupation was seen as a significant factor in class determination. To a large extent, the husband's occupation determined class.¹⁸⁰ However, as MacDonald stated, 'the fluid and highly mobile character of colonial society makes it difficult to describe, with any certainty, a social structure or the location of individuals within it ... occupational titles as indicators of social status have their limitations.'¹⁸¹ This was certainly the case in Tasmania, where as the century progressed, a major determinant of social class was convict background.

Occupation at marriage can give a false picture of the occupational background of a husband. It was not uncommon for people to change occupations, particularly for those who had been convicts. Alfred Walker, husband of Alice Julian, had a variety of occupations: venetian blind maker; labourer; policeman or constable; and

¹⁷⁸ McConville, 'Catholics and Mobility in Melbourne and Sydney, 1861-1891', *Australia 1888*, Bulletin No.2, August 1979, pp.59, 62.

¹⁷⁹ Morgan, 'This Land of Plenty', pp.75-76.

¹⁸⁰ Macdonald, *A Woman of Good Character*, p.146.

¹⁸¹ Macdonald, *A Woman of Good Character*, p.146.

carrier.¹⁸² Thomas Patterson provides another example: recorded as a drayman on his convict record and a gardener at the time of his marriage, he later ran a tobacconist shop in Hobart.¹⁸³ He later moved to Sydney where his occupation was recorded as shipping clerk,¹⁸⁴ writing clerk,¹⁸⁵ and herbalist.¹⁸⁶ In the 1860s, Thomas had herbalist establishments in central Sydney and was so well regarded that, according to family legend, he visited Fiji about 1870 to treat one of the aristocratic Fijians.¹⁸⁷

Progression of occupations can sometimes be interpreted as an indication of economic success: when Eliza Jones married farm labourer Samuel Smith in 1851, he was a twenty-eight-year-old ticket-of-leave-holder.¹⁸⁸ Shortly after their marriage, Samuel Smith was living in the Huon district.¹⁸⁹ At the time of the birth of his children, his occupation was recorded as 'overseer' but by 1853, he was calling

¹⁸² AOT, RGD 33/6 1856 Hobart No.861: Sarah Walker (18 December 1855); AOT, RGD 33/7 1857 Hobart No.831: female Walker (29 August 1857); AOT, RGD 33/7 1859 Hobart No.2854: Thomas Alfred Walker (28 September 1859); AOT, RGD 33/41 1863 Longford No.935: Catherine Walker (30 July 1863); AOT, RGD 33/9 1866 Hobart No.8270: Rosalie Walker (20 December 1865); AOT, RGD 33/9 1867 Hobart No.9569: Amelia Walker (8 October 1867); Victorian Birth Certificate 1873 No.1541: Beatrice Walker.

¹⁸³ AOT, CON 33/80 and CON 14/29 Thomas Patterson *David Malcolm* 1845 No.18615; AOT, RGD 37/10 1851 Hobart No.592: Nowland/Patterson (3 March 1851); *CT* 22 June 1854 p.3 col. 1; *HTC* 21 June 1854 p.2 col. 5; *HTA* 22 June 1854 p.2 col.4-5.

¹⁸⁴ NSW Birth Certificate 1856 No.468: Mary Jane Patterson.

¹⁸⁵ NSW Birth Certificate 1858 No.685: Thomas William Patterson.

¹⁸⁶ NSW Death Certificate 1877 No.000603 Thomas William Patterson.

¹⁸⁷ David Woodward, *personal communication*, April 2004: Thomas died in the Surry Hills area in 1877: at this time, the directories no longer listed him as having herbalist shops, so he may have retired or gone out of business.

¹⁸⁸ AOT, CON 33/97 Samuel Smith 1st *Nile* 1850 No.22844; AOT, RGD 37/10 1851 Richmond No.964: Jones/Smith (27 August 1851). Smith is indexed as 'Snith'. The marriage was also noted on Eliza Jones' conduct record: see AOT, CON 41/28.

¹⁸⁹ AOT, CON 41/28 and CON 15/6 Eliza Jones *Duke of Cornwall* 1850 No.390.

himself a farmer and this was still his occupation when he died.¹⁹⁰ On paper, he looks to have been successful but the civil registration records only tell part of the family's story, for Samuel struggled economically as a farmer for many years.¹⁹¹

In summary, the majority of the deliberate arsonists married in the colony, usually in their early twenties and while still under sentence. The choice of partner was limited, not only by demographic availability, but also by the rules and regulations of the Convict Department. Nevertheless, the gender imbalance ensured that there was some scope in the choice of partner, allowing the deliberate arsonists to exercise a degree of agency. The deliberate arsonists do not seem to have particularly sought out Irish or Roman Catholic husbands, and the majority – 69 per cent – married in a Protestant church. Most of the deliberate arsonists married fellow convicts, under sentence or freed by servitude or pardon, and most married labourers.

Married life

As with so many parts of the lives of the deliberate arsonists, only fragmentary information about the details of their married lives survives. Reminiscences by descendants focus on physical descriptions and individual memories rather than the

¹⁹⁰ AOT, RGD 33/4 1852 Hobart No.1445: Harriet Smith (overseer); AOT, RGD 33/5 1853 Hobart No.355: female Smith (farmer of Blackman's Bay); AOT, RGD 33/6 year Hobart No.525: male Smith (farmer, Huon); AOT, RGD 33/42 1864 Franklin No.770: male Smith (farmer, Upper Huon); AOT, RGD 33/46 1868 Franklin No.527: male Smith (farmer, Upper Huon); AOT, RGD 35/68 1899 Franklin No.268: Samuel Smith (farmer, Upper Huon).

¹⁹¹ Richie N. Woolley, *Above the Falls. The People and the History of the Upper Huon*, Geilston Bay, 2002, pp.80-84.

nature of relationships.¹⁹² Private lives only became public if they came to the attention of the authorities, and, for the most part, the deliberate arsonists escaped such scrutiny. Those who married while under sentence were an exception, as they remained subject to the rules of the Convict Department.

Some married convict women were assigned to their husbands. This was not always a successful arrangement, and some couples ended up in court. Whilst it is not always possible to tell from the conduct record who was responsible for bringing the woman before the magistrate on charges such as disobedience, drunkenness and misconduct, on some occasions the husband was clearly responsible.¹⁹³ The case of Irish female arsonist Ann Flannery illustrates the difficulty of being assigned to a spouse. Flannery, who arrived in 1845, married John Brown in 1848, and was assigned to him. In January 1849, she was sentenced to fourteen days in the cells for being drunk. In November 1849, she absconded. In these instances, it is difficult to tell who brought the charges. However, in June 1851, when she received one month's hard labour in the Female Factory for being absent from her husband, it is

¹⁹² See, for example, Dianne Egbert, *personal communication* 4 May 2004; Pearl Griggs, *personal communication*, 22 September 2004; ; Bruny Island Historical Society, 'The Conley Family History by Valma Conley nee Pybus 2000 and updated by Kathy Duncombe 2003', unpublished manuscript; Cyril Caswell, *personal communication*, 14 June 2000; Williams, 'Ellen Mary Wiseman and Reuben Cousins', in Quint (ed.) p.265; Gordon Roberts, *personal communication*, 15 July 1998; Maree Holden, *personal communication*, 22 September 2001.

¹⁹³ For similar patterns in NSW, see Annette Salt, *These Outcast Women. The Parramatta Female Factory 1821-1848*, Sydney, 1984, p.87. Salt wrote of husbands returning their wives to the Factory after domestic quarrels.

quite clear that there was an inherent tension between her status as wife and assigned servant.¹⁹⁴

Similarly, Johanna Walsh, who married labourer and convict Charles White in Ouse in 1851, was assigned to her husband. Like Ann Flannery, she was punished for leaving Charles, because he was not only her husband but also her master: in June 1851, six weeks after their marriage, she was given one month's hard labour for leaving her husband without permission.¹⁹⁵ No explanation for Johanna's action has been found and it is not clear whether the couple reunited.¹⁹⁶ Clearly, however, being assigned to a husband introduced elements into a marital relationship which would not have otherwise existed.

¹⁹⁴ AOT, CON 41/5 Ann Flannery *Tasmania* (2) 1845 No.329. See also AOT, CON 41/5 Mary Burns *Phoebe* 1845 No.718.

¹⁹⁵ AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795.

¹⁹⁶ AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795: the only other later information on her conduct record noted that she was granted a ticket-of-leave in 1852 and her conditional pardon on 21 June 1853. Before their marriage, in 1849, White was acquitted of a rape charge in the Hobart Town Supreme Court, but there is no evidence that he was violent or any indication why his wife left. Nor is there a record of children: the relationship may not have lasted, although Johanna may still have been in Hamilton in 1853 when White was re-transported for forgery: see AOT, CON 37/7 p.2301: Charles White. His reconviction record indicated that he was married and that his wife was in Hamilton. White absconded from Port Arthur in November 1853 and again later in 1863 when he was found at Hamilton. He was given 9 months' hard labour for absconding, and, on the same date, 12 months' hard labour cumulative, for insubordination. He was granted a free pardon in 1865. In June 1865, White died at the New Norfolk Asylum for the Insane, having been admitted because of insanity caused by injuries received at Port Arthur in 1864: see AOT, LC 247/32: Charles White *Cressy*; AOT, CON 37/7 p.2301: Charles White; AOT, RGD 35/34 1865 New Norfolk No.353 (11 June 1865): Charles White. Joanna may have died at Hamilton: see AOT, RGD 35/61 1892 Hamilton No.309: Hannah Welsh (22 July 1892). Hannah Welsh, a 76-year-old widow, died at Hamilton in 1892. Her death was registered by certificate from the surgeon at Hamilton. This woman was born c1816, however, and Johanna was born c1827-1828.

Some women were forced by economic necessity to remain in violent or abusive relationships.¹⁹⁷ Although some historians have argued that wife-beating was commonplace in colonial Australia,¹⁹⁸ it is difficult to determine the extent and nature of violent or abusive relationships in colonial Van Diemen's Land. As Allen stated, historical evidence of abusive domestic relationships is uncommon, 'a consequence of minimal intervention by the State in otherwise effective families'.¹⁹⁹ Historical records have only been created or survived when domestic violence was 'extreme enough to elicit ... intervention'.²⁰⁰ These records include newspaper reports of assault.²⁰¹ Some charges of domestic violence appear in the record books of the Van Diemen's Land lower courts, but details are rarely given and complaints were often withdrawn.²⁰² The absence of evidence relating to domestic violence raises questions

¹⁹⁷ Margaret James, 'Not Bread but a Stone: Women and Divorce in Colonial Victoria', in Grimshaw, McConville, and McEwen, *Families in Colonial Australia*, pp.42-49; Golder and Kirkby, 'Marriage and divorce law', p.156: legislation enabling married women to own property was not introduced until 1870. See John Mackinolty, 'The Married Women's Property Acts', in Judy Mackinolty and Heather Radi (eds), *In Pursuit of Justice. Australian Women and the Law 1788-1979*, Sydney, 1979, pp.66-75. See also Michal Bosworth, 'Protection or abuse? An introductory list of statutes relating to discrimination against women in Australia 1824-1978' in Mackinolty and Radi, *In Pursuit of Justice*, pp.251-252.

¹⁹⁸ See, for example, Marilyn Lake, 'Intimate Strangers', in Verity Burgmann and Jenny Lee (eds), *Making A Life*, Melbourne, 1988, pp.156-157; Kay Saunders, 'The Study of Domestic Violence in Colonial Queensland: Sources and Problems', *Historical Studies*, Vol.21, April 1984, pp.68-84.

¹⁹⁹ Judith Allen, 'The invention of the pathological family: a historical study of family violence in N.S.W.' in Carol O'Donnell and Jan Craney (eds) *Family Violence in Australia*, Melbourne, 1982, p.1. See also N. Tome, 'A torrent of abuse: crimes of violence between working class men and women in London, 1840-1875', *Journal of Social History*, Vol.11, Spring 1978, pp.328-345. See also Hilary Rumley, 'A Missionary's Moral Burden: A Perspective on the Problems of Women in Fremantle in the Early 1840s', *The Push from the Bush: A Bulletin of Early Social History*, No.16, October 1983, pp.33-36.

²⁰⁰ Allen, 'The pathological family', p.1. See also Tome, 'A torrent of abuse'.

²⁰¹ A. James Hammerton, *Cruelty and Companionship: Conflict in Nineteenth Century Married Life*, London, 1992; Olive Anderson, 'State, Civil Society and Separation in Victorian Marriage', *Past and Present*, No.163, May 1999, p.170.

²⁰² See, for example, AOT, LC 247/27 7 November 1867: Elizabeth Poynton charged her husband with unlawfully beating her. See also Stefan Petrow, 'The Hobart Town Municipal Police 1858-1878', *THRAPP*, Vol.42 No.4 December 1995 p.180. For the way that colonial courts dealt with domestic violence in New South Wales, see Allen, 'The pathological family', pp.9-10. This examined the police

about the image of the convict wife as a victim, and the brutality of convict relationships, espoused in particular by Miriam Dixon.²⁰³ To a large extent, this view was an extension of the argument that male violence against women was not only a working class practice but also an Irish practice.²⁰⁴ The records of the deliberate arsonists reveal little concrete evidence of domestic violence, although there is some evidence in the wider group of arsonists. One example took place in 1861. David Ringrose, who had married Margaret O'Donnell in 1858 in Campbell Town, was sentenced there in April 1861 to six months' hard labour for aggravated assault on his wife; he hit her on the head with a shovel.²⁰⁵ Although Ringrose had several colonial offences, these were for misdemeanours and drunkenness and he does not appear to have had a history of violence.²⁰⁶ His wife gave birth to a daughter less than a week after her husband was sentenced for aggravated assault.²⁰⁷

attitude to domestic violence in NSW in the late 19th century: police were advised not to interfere where the assault on a wife appeared to be minor but were to advise her to apply to a magistrate for a summons. The cost of a summons in Sydney at this time was 6s 6d or half the weekly wage of a domestic servant.

²⁰³ Miriam Dixon, *The Real Matilda: Woman and identity in Australia, 1788 to the present*, Victoria, 1976. Reissued 1994.

²⁰⁴ For a discussion of domestic violence and class-basis, see Allen, 'The pathological family', pp.15-16. For a discussion of domestic violence and Irishmen, see Diner, *Erin's Daughters*, pp.55-57. For evidence of violence cited in divorce petitions in Victoria, see Morgan, 'This Land of Plenty', pp.91-92 esp. Table 4.6 (a). Morgan found that court records and divorce petitions in Victoria were full of references to domestic violence, but given that 'cruelty' was one of the grounds for divorce, this is hardly surprising. She also found that there was no clear-cut grouping of perpetrators on the basis of either class or nationality.

²⁰⁵ AOT, LC 83/13 Campbell Town (27 April 1861).

²⁰⁶ AOT, CON 33/80 David Ringrose *David Malcolm* 1845 No.18628. His wife also had a conviction for assault: in 1859, at Campbell Town, she was sentenced to three months' imprisonment with hard labour for assaulting Catherine Martin: see AOT, CON 41/36 Margaret O'Donnell *Midlothian* 1853 No.136.

²⁰⁷ AOT, RGD 33/39 1861 Campbell Town No.634: female Ringrose (24 April 1861). See Allen, 'The pathological family', p.18, and the relationship between pregnancy and domestic violence.

The couple later had several more children, the youngest born in 1870 in Campbell Town.²⁰⁸

Much of the writing about colonial marriage has focused on the success of the marriage itself. Alford, for example, argued that failed colonial marriages were a minority, and that most marriages were harmonious and happy, providing a fulfilling and satisfying role for many women. She also emphasised that colonial women lived in a context which provided few social and economic options.²⁰⁹ Yet evidence to support Alford's argument of happy marriages is difficult to find. Examining the place of marriage in the lives of immigrant women, Rushen commented that 'In the absence of historical evidence on the number and circumstances of women caught in unendurable marriages, it is impossible to form an assessment of the strength or fragility of the marriages of the women under study'.²¹⁰ This is true, too, of the marriages of the deliberate arsonists: some were successful long-term partnerships, while others were short-lived.

One ostensibly successful long-term partnership was that formed between deliberate arsonist Margaret Leary and James Nichols. A twenty-five-year-old widowed country servant when she arrived, Margaret stated that she committed arson in order

²⁰⁸ AOT, RGD 33/48 1870 Campbell Town No.103; Charles Ringrose (22 March 1870).

²⁰⁹ Alford, *Production and Reproduction*, pp.66-67.

²¹⁰ Rushen, 'Free, single and female', p.228.

to join her father, who was with Hamilton Hume in New South Wales.²¹¹ A year after her arrival, however, Margaret married London painter James Nichols, transported as a nineteen-year-old for larceny in 1842.²¹² There is no evidence that she attempted to join her father in New South Wales. James Nichols, scarred and showing the 'marks of punishment' on his back, was frequently punished while serving his sentence, but no offences were recorded after he received his Certificate of Freedom in 1848.²¹³ The couple had at least six children, the first born nine months after his parents married.²¹⁴ Another five were born between 1853 and 1861, all in Hobart.²¹⁵ The couple had been married forty-six years when James died in 1895.²¹⁶ They were buried together in the Roman Catholic section of the Cornelian Bay Cemetery.²¹⁷

Another long-term marriage was that of Johanna Sullivan and Henry Chesshire, who had been married forty-four years when Henry died in 1898. Nineteen-year-old

²¹¹ AOT, CON 41/19 and CON 15/5 Margaret Leary *Kinnear* (2) 1848 No.405. For Hamilton Hume, see *ADB*, Vol.1 p.564.

²¹² AOT, CON 33/27 and CON 14/13 James Nichols *Surrey* (4) 1842 No.6575; AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls (5 November 1849).

²¹³ AOT, CON 33/27 and CON 14/13 James Nichols *Surrey* (4) 1842 No.6575. He received his Certificate of Freedom on 20 October 1849. In Van Diemen's Land, James Nicholls was punished several times for a variety of offences, including having produce improperly in his possession; being disorderly and striking a child in the streets; and gross misconduct in taking an undue liberty with a 4-year-old infant. He finally received his Certificate of Freedom on 20 October 1848.

²¹⁴ AOT, RGD 33/3 1850 Hobart No.2625: male Nicholls (24 August 1850).

²¹⁵ AOT, RGD 33/4 1853 Hobart No.2060: male Nicholls (4 February 1853); AOT, RGD 33/5 1854 Hobart No.1046: female Nichols (20 June 1854); AOT, RGD 33/7 1857 Hobart No.510: male Nichols (23 May 1857); AOT, RGD 33/7 1859 Hobart No.2344: John Nichols (11 March 1859); AOT, RGD 33/8 1861 Hobart No.4545: George Nichols (28 July 1861).

²¹⁶ AOT, RGD 35/15 1895 Hobart No.288: James Nicholls (2 September 1895): he died of old age and bronchitis. See also SRCT IB 10357 30/11/1901 RC D 74: James Nichols. Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nicholls: aged 78, she died in 1901, of old age.

²¹⁷ SRCT, Record ID 10277, RC, Section D, No. 74: James Nichols; SRCT, Record ID 12832, RC, Section D, No.74: Margaret Nichols.

child's maid Johanna Sullivan arrived in the colony in 1852, transported for life.²¹⁸ She demonstrated an eagerness to marry, twice unsuccessfully applying for permission to marry Laurence Butler within nine months of her arrival,²¹⁹ and nine months later to Henry Chesshire.²²⁰ Johanna had a number of offences during this period and this may have contributed to the refusal of the first three applications. A second application to Henry was approved.²²¹ The couple had three children in Hobart before moving north to Mangana, where four more sons were born.²²² Eighty-three-year-old Henry died in 1898 at Mangana.²²³ His widow died at Mangana four years later.²²⁴

Not all marriages survived, though divorce was rare until well after the turn of the nineteenth century, particularly in the smaller states.²²⁵ Most couples preferred to

²¹⁸ AOT, CON 41/35 and CON 15/7 Johanna Sullivan *Martin Luther* No.1007.

²¹⁹ AOT, CON 52/6: Sullivan/Butler. Johanna Sullivan *Martin Luther* and Laurence Butler *Nile* unsuccessfully applied for permission to marry on 9 March 1853 and 29 June 1853. It was noted on the application that the 'Female must be 12 months in the colony before etc. 16/3/53'.

²²⁰ AOT, CON 52/6 Sullivan/'Chesshire': this application, made on 23 December 1853, was not successful: 'woman must serve six months etc 28/12/53'. See also AOT, CON 52/7 p.60: Sullivan/Chesshire. His name is variously spelt. See also AOT, CON 33/39, CON 14/25 & CON 18/41 Henry Chesshire *HMS Anson* No.14439. See also AOT *Correspondence File*: "Henry J. Chesshire". A 17-year-old labourer from Bransgrove when he was tried in Warwick Assizes in 1843, he was sentenced to transportation for 10 years for burglary. He had numerous colonial offences before receiving his certificate of freedom in 1853.

²²¹ AOT, CON 52/7 p.60 Sullivan/'Chesshire' (31 January 1854); AOT, RGD 37/13 1854 Hobart No.315: Sullivan/Chesshire (February 1854).

²²² AOT, RGD 33/6 1857 Hobart No.310: Sarah Ann Chesshire (4 April 1857); AOT, RGD 33/7 1858 Hobart No.1329: Henry William Chesshire (26 February 1858); AOT, RGD 33/38 1860 No.1041: Mary Ann Chesshire (21 October 1860); AOT, RGD 33/41 1863 Fingal No.452: William Charles Frederick Chesshire (4 January 1863); AOT, RGD 33/43 1865 Fingal No.450: John Chesshire (8 February 1865); AOT, RGD 33/45 1867 Fingal No.423: Frederick Chesshire (19 May 1867); AOT, RGD 33/48 1870 Fingal No.404: Charles Edward Chesshire (20 August 1869).

²²³ AOT, RGD 35/67 1898 Fingal No.250: Henry Chesshire (25 January 1868).

²²⁴ Tasmanian Death Certificate 1902 Fingal No.0218: 'Johnana Chershire'.

²²⁵ For the history of colonial divorce, see Henry Finlay, *To Have But Not to Hold. A history of Attitudes to Marriage and Divorces in Australia 1858-1975*, Sydney, 2005. Finlay, 'Divorce and the Status of Women', pp.1-37; Henry Finlay, 'Lawmaking in the Shadow of the Empire: Divorce in

separate than divorce; there was a social stigma attached to divorce and a strong class bias existed.²²⁶ There is no evidence that any of the deliberate arsonists, or their spouses, resorted to divorce to end marriage. Many marriages were ended, however, by desertion.²²⁷

No study has been undertaken of the frequency of desertion in colonial Tasmania. In 1839, Van Diemen's Land was the first colony to introduce legislation allowing deserted partners to sue their partners for maintenance.²²⁸ This may be an indication of the incidence of desertion in the colony. In her study of early New South Wales, Robinson argued that the active interest of the colonial authorities, especially the governor himself, in everyday lives may have restricted the number of absconding

Colonial Australia', *Journal of Family History*, No.24, 1999, pp.74-109; Golder, *Divorce*, pp.197-188; Golder and Kirkby, 'Marriage and divorce law', pp.157-163; Margaret James, 'Not Bread but a Stone: Women and Divorce in Colonial Victoria' in Grimshaw, McConville, and McEwen, *Families in Colonial Australia*, pp.42-48. See also Lawrence Stone, *The Road to Divorce: England 1530-1987*, Oxford, 1990, pp.309-322. Colonial legislation, generally, was modelled on the imperial *Matrimonial Causes Act of 1857*: Golder and Kirkby, 'Marriage and divorce law', p.157; James, 'Not Bread but a Stone', pp.42-48. By 1873, all colonies had some form of divorce legislation: Golder and Kirkby, 'Marriage and divorce law', p.159. This allowed a man to petition for divorce on the grounds of his wife's adultery. A woman had to prove not only adultery but also another matrimonial offence such as cruelty, desertion or bigamy. Both men and women could also apply for judicial separation, on the grounds of cruelty, adultery, desertion or bigamy. This allowed for spouses to live separately but did not permit remarriage. Later amendments moved towards an extension of the grounds for divorce, making it more accessible to women: Golder and Kirkby, 'Marriage and divorce law', pp.159-60. In Tasmania, the *Matrimonial Causes Amendment Act* was not passed until 1919.

²²⁶ Golder and Kirkby, 'Marriage and divorce law', pp.157-162. For an analysis of formal separation, see Olive Anderson, 'State, Civil Society and Separation in Victorian Marriage', *Past and Present*, No.163, May 1999, pp.161-201. James, 'Not Bread but a Stone', p.47: James' study of divorce and judicial separation petitions in colonial Victoria and New South Wales revealed that the occupational group most often represented in divorce cases were property-owning small businessmen or skilled tradesmen. In those cases where women petitioned, they were from a similar class. For an analysis of divorce petitions, see also Morgan, 'This Land of Plenty', pp.84-93.

²²⁷ Anne O'Brien, *Poverty's Prison: The Poor in New South Wales 1880-1918*, Melbourne University Press, 1988, esp. Chapter 9. See also A. O'Brien, 'Left in the Lurch: deserted wives in N.S.W. at the turn of the century' in Mackinolt, *In pursuit of justice*, pp.96-105.

²²⁸ Golder and Kirkby, 'Marriage and divorce law', p.158; Finlay, 'Divorce and the Status of Women', p.11.

and deserting spouses: 'the erring wife or husband knew that appeal could be made to the authorities where there was a cause to complain of unlawful, immoral or dishonest conduct.'²²⁹ Certainly, as already noted, there are indications that some domestic difficulties in Van Diemen's Land were resolved, at least in the short term, by appeal to the convict authorities. This process was formalised in desertion legislation.

Desertion was often the result of failed marriages or *de facto* relationships.²³⁰ However, some desertions were temporary. In some instances, desertion was simply the absence of a male partner for work-related reasons, the consequence of an itinerant rural workforce.²³¹ Occasionally, a deserting husband was located and returned to his family, or he returned to them of his own accord. After an absence of at least twelve months, Bernard Gallagher, deserting husband of Ann Corry, returned to his family; he had been in gaol for bankruptcy.²³² Two years after her arrival in Hobart as a recently-orphaned sixteen-year-old, Ann Corry married fellow convict, baker Bernard Gallagher.²³³ He was freed by servitude in 1853 and Ann in 1856. After their marriage, they lived in various rural districts including Spring Bay,

²²⁹ Robinson, *Botany Bay*, p.292.

²³⁰ Allen, 'The pathological family', pp.1-27; Finlay, 'Divorce and the Status of Women', pp.11-12. See also Christina Twomey, *Deserted and destitute. Motherhood, Wife Desertion and Colonial Welfare*, Melbourne, 2002.

²³¹ O'Brien, 'Poverty's Prison', p.102; Shirley Fisher, 'The family and the Sydney economy in the late 19th century', in Grimshaw, McConville and McEwen, *Families in Colonial Australia*, pp.157-158.

²³² AOT, SWD 26/6 4 July 1863: Gallagher; *The Mercury* 29 July 1861 p.1 col.4, 11 August 1862 p.1 col.3, 21 August 1862 p.8 col.5, 25 August 1862 p.2 cols.4-5.

²³³ AOT, CON 41/24 Ann Corry *Australasia* 1849 No.1000; AOT, RGD 37/10 1851 Hobart No.524: Corry/Gallagher; AOT, CON 33/69 Bernard Gallagher *Ratcliffe* (1) No.16474. Ann's mother was tried with her; she died during the voyage.

Richmond and Glamorgan, where it appears Gallagher was employed as a labourer, baker and farmer. Between 1853 and 1861, the couple had at least five children.²³⁴ In July 1863, Ann Gallagher, of the 'Springs' in Glamorgan, applied to have four of her six children admitted to the Orphan School.²³⁵ According to the application, Gallagher deserted his family in June 1862, leaving his wife with six children, 'perfectly destitute'. Ann Gallagher was 'out of employment' because she was caring for her family. For over twelve months, the family had managed to survive 'by the charity of their neighbors, who [were] unwilling to continue assistance any longer.' The warden of Glamorgan testified that the eldest boy had been well brought up, and that he believed his 'habits and general character' were good. Concern about the habits of older children was common, and they were closely scrutinized for any indication of vicious habits.²³⁶ The admission to the Orphan School was approved but before it took place Gallagher was located, and the family was no longer considered to have a claim to be kept at the public expense.²³⁷ Shortly after, the family relocated to Glen Innes in New South Wales.²³⁸

²³⁴ AOT, RGD 33/31 1853 Spring Bay No.209: Bernard Gallagher (28 July 1853); AOT, RGD 33/33 1855 Richmond No.1351: John Galaha (4 January 1855); AOT, RGD 33/35 1857 Glamorgan No.635: Michael Gallagher (21 November 1857); AOT, RGD 33/37 1859 Glamorgan No.686: James (registered as 'Jane' Gallagher (19 October 1859); AOT, RGD 33/40 1862 Glamorgan No.599: Bridget Gallagher (24 December 1861). The birth of a sixth child, Patrick Gallagher (b. c1852), mentioned in an Orphan School application, has not been traced: see AOT, SWD 26/6 4 July 1863: Gallagher.

²³⁵ AOT, SWD 26/6 4 July 1863: Gallagher. The four children for whom admission was sought were Patrick (11); John (8); Michael (6); and James (3). The other two mentioned in the application were Bernard (10) and Sarah (18 months).

²³⁶ Kociumbas, *Australian Childhood*, p.45.

²³⁷ AOT, SWD 26/6 4 July 1863: Gallagher.

²³⁸ NSW Death Certificate 1891 No.006329 (Patrick Joseph Gallagher); NSW Death Certificate 1905 No.008779 (Mary Ann Gallagher).

As has been shown, not all partnerships were formally sanctioned. This was in keeping with working-class patterns. It is difficult, however, to document relationships which did not have some formal aspect. It is only when one of the parties to the relationship had some contact with a government authority or some agency that details about the relationship come to light. Sometimes information can be gleaned from the woman's conduct record. Rarely was information about relationships or marriages recorded on male conduct records. One of the richest sources for information about colonial relationships are institutional records such as the applications for admission of children to the Orphan School, which, particularly from the mid-1860s, document many relationships formed outside the realms of law and church. Similarly, court and police records, and the records of charitable institutions, such as the Hobart Benevolent Society, provide information about relationships, as do birth records.

To summarise, colonial marriage took many forms. For some of the deliberate arsonists, marriage was a long-term partnership, ostensibly bringing stability and security. For others, the desertion and death of a spouse increased vulnerability.

Marriage as a survival strategy

Economic independence was difficult for women. Golder asserted that the best way for a woman to avoid poverty was to find a male provider.²³⁹ Rushen's study of immigrant women concluded that many widows quickly remarried, 'confirming the

²³⁹ Golder, *Divorce*, p.171.

need many of these women felt for the bond of marriage and the economic security it could provide'.²⁴⁰ Widowed parents were particularly economically vulnerable. It was not unusual for widowed parents to remarry, especially if surviving children were still young.²⁴¹ When deliberate arsonist Elizabeth Coghlan died in 1864 at the age of thirty, leaving three children aged between five and ten, her widowed husband remarried just over two years later and started a new family with his seventeen-year-old wife.²⁴² Similarly, Coghlan's shipmate's widowed husband remarried just over two years after his wife's death: thirty-three-year-old Ellen Connor died in December 1864; in January 1867 her husband, George Raymond, remarried.²⁴³

At least three of the deliberate arsonists remarried after being widowed. As already noted, one of these was Mary Prendgast, who outlived three husbands.²⁴⁴ Her second husband, Luke Welsh, according to the newspaper report of his inquest, 'bore a steady and good character, was married and in comfortable circumstances',²⁴⁵ and so it may have not been economic need that led Mary to her third marriage to John

²⁴⁰ Rushen, 'Free, single and female', p.224.

²⁴¹ See L.A. Clarkson, 'Love, Labour and Life: Women in Carrick-on-Suir in the Late Eighteenth Century', *Irish Economic and Social History*, Vol.XX, 1993, pp.22-23 suggested, as reasons for the frequent remarriage of widowers, assistance in the running of the household economy, the care of young children and possibly, pining for the emotional support of wives.

²⁴² AOT, CON 41/22 and CON 15/5 Elizabeth Coghlan *Maria* (2) 1849 No.966; AOT, RGD 37/26 1867 Hobart No.182: West/Hilsley (7 January 1867); AOT, RGD 32/4 1871 Longford No.6306: Jane Hilsley (no date); AOT, RGD 33/49 1871 Longford No.927: Esther Hilsley (20 June 1871).

²⁴³ AOT, CON 41/22 and CON 15/5 Ellen Connor *Maria* (2) 1849 No.964; AOT, RGD 35/33 1864 New Norfolk No.2398: Ellen Raymond (18 December 1864); AOT, RGD 37/26 1867 New Norfolk No.495: Hunt/Raymond (31 January 1867). They had at least one child: AOT, RGD 33/45 1867 New Norfolk No.1068: George Raymond (29 December 1867); AOT, RGD 35/37 1868 New Norfolk No.359: George Raymond (29 January 1868).

²⁴⁴ AOT, RGD 37/12 1853 Hobart No.718: Prendergast/Galligan (9 May 1853); AOT, RGD 37/12 1853 Hobart No.834: Pendergast/Walsh (12 December 1853); AOT, RGD 37/19 1860 Hobart No.159: Perry/Welsh (12 September 1860).

²⁴⁵ *The Mercury* 23 November 1855 p.2 col.6. See also AOT, RGD 35/5 1856 Hobart No.535: Luke Welsh (19 November 1855).

Perry five years later in 1860. Her relationship with Perry had formed well before their marriage, as Mary Prendgast had two children to him by the time they married, the first in November 1857.²⁴⁶ Perry was one of the few husbands, of all the deliberate arsonists, for whom a will has been located – perhaps an indicator of relatively comfortable circumstances.²⁴⁷ When he died in 1904, he left his ‘goods chattels rights credits and effects’ to his widow, who was also his executor and testified that she believed that his property did not exceed £50 in value.²⁴⁸ As well, both he and Mary were buried with headstones (although in different cemeteries), another indication that they were not impoverished.²⁴⁹

Unlike Mary Prendgast, the other three women who were widowed and remarried appear to have been much more economically vulnerable. Catharine Conway also married three times. In May 1853, she married Morris Long, a coachman.²⁵⁰ The couple had been married five months when Morris Long died of ‘pulmonary disease’.²⁵¹ Less than five months later, in March 1854, Catharine Conway and

²⁴⁶ AOT, RGD 37/19 1860 Hobart No.159: Perry/Welch; AOT, RGD 33/35 1857 Franklin No.461 A: female Perry (8 November 1857); RGD 33/38 1860 Franklin No.1069: male Perry (16 March 1860).

²⁴⁷ AOT, AD 960/27 p.165 No.6437 (1904) Will of John Perry.

²⁴⁸ AOT, AD 960/27 p.165 No.6437 (1904) Will of John Perry.

²⁴⁹ TAMIOT: HU05/0700320 Ranelagh, St James Anglican, Huon (John Perry); TAMIOT HU06/0700101: Ranelagh Sacred Heart Roman Catholic, Huon (Mary Perry).

²⁵⁰ AOT, CON 52/6: Conway/Long; AOT, RGD 37/12 1853 Hobart No.561: Conway/Long (19 May 1853). For Long, see AOT, CON 35/2 p.24 and CON 16/5 p.16: Morris Long *Sir John Byng* No.707: a London coachman, he had been originally transported for 14 years to New South Wales, arriving in Sydney in September 1833 on the *Heroine*. In March 1842, he was tried for robbery (housebreaking) in Maitland Quarter Sessions, and was sentenced to 15 years in a penal settlement. He arrived in Van Diemen’s Land on the *Sir John Byng* on 28 October 1843. In 1849, he was granted a ticket-of-leave, and, just before his marriage, was granted a conditional pardon.

²⁵¹ AOT, RGD 35/22 1853 Richmond No.151: ‘Maurice’ Long (10 October 1853).

Thomas Poole applied for permission to marry.²⁵² The application was sent back to Catharine Conway for proof that her husband had died. It was approved in May, and Catharine and Thomas, a forty-four-year-old farmer, were married that month.²⁵³ They had been married for just over six years when Thomas died.²⁵⁴ Catharine then formed a relationship with John Hunter, with whom she had at least two children, a daughter in 1868 and a son in 1869.²⁵⁵ In October 1873, after Catharine was released from the Cascades prison where she had been serving a twelve-month sentence for perjury, she and John married.²⁵⁶ It is interesting that the third marriages for both Mary Prendgast and Catharine Conway took place some time after they had formed relationships and had children with the men they were to marry. In both cases, there is no clear indication why the couples chose to marry when they did.

Alice Tobin and William Moy married in 1855.²⁵⁷ They had several children between 1855 and 1860 in Hobart, before moving to Oatlands.²⁵⁸ In May 1869,

²⁵² AOT, CON 52/7 p.357: Conway/Poole.

²⁵³ AOT, RGD 37/13 1854 Hobart No.368: Conway/Poole (22 May 1854). In 1855, the couple had a son, who died 5 weeks later of convulsions: AOT, RGD 33/6 1855 Hobart No.171: male Poole (22 June 1855); AOT, RGD 35/5 1855 Hobart No.427: Thomas Poole (4 December 1855).

²⁵⁴ AOT, RGD 35/29 1860 Brighton No.394: Thomas Poole (16 July 1860).

²⁵⁵ AOT, RGD 33/46 1868 Green Ponds No.620: Catharine Hunter (27 December 1867); AOT, RGD 33/47 1869 Green Ponds No.614: William Hunter (1 June 1869).

²⁵⁶ AOT, RGD 37/51 1873 Green Ponds No.136: Poole/Hunter (13 October 1873). If her age on arrival was correct, Catharine was approximately forty-five in 1873.

²⁵⁷ AOT, CON 41/35 and CON 15/7 Alice Tobin *Martin Luther* No.379; AOT, CON 52/7 p.290: Tobin/Moy; AOT, CON 33/104, CON 18/55 and CON 14/42 William Moy *Blenheim* (4) 1851 No.24816. Moy appears as May on the *Tasmanian Convict Index*. William Moy was a locksmith and fell hanger from Dublin transported at the age of 23 for receiving stolen goods. AOT, RGD 37/14 1855 Hobart No.236: Tobin/Moy (19 February 1855): 'Allice' Tobin, a spinster aged 26, and William Moy, a blacksmith aged 25, were married at St George's Church of England, Hobart, by H.P. Fry.

²⁵⁸ AOT, RGD 33/5 1855 Hobart No.127: Male Moy (16 June 1855); AOT, RGD 35/5 1855 Hobart No.28: Male Moy (1 July 1855); AOT, RGD 33/6 1856 Hobart No.1185: William Moy (25 April 1856); AOT, RGD 33/6 1857 Hobart No.166: George Arthur Moy (9 January 1857); AOT, RGD 33/7 1859 Hobart No.2473: Joseph William Moy (5 May 1859); AOT, RGD 33/7 1860 Hobart No.3771:

however, suffering from 'amentia', Moy was admitted to the asylum at New Norfolk, where he died five months later.²⁵⁹ Alice Moy continued to live in Oatlands after her husband's admission to the asylum, receiving public aid because of her husband's incapacity. The record of her public assistance also noted that she was suffering from cancer, and that she had one child, aged ten, who was described as 'a cripple'.²⁶⁰ The child was most likely James Thomas, who was born in 1860 and died in 1874.²⁶¹ In July 1874, Alice married fifty-year-old widowed servant James Thrower.²⁶² Alice's only surviving son, James, had died in April that year and her government financial assistance would have been considerably reduced, if not stopped.²⁶³ Remarriage, for Alice, was a sound economic strategy, especially as she had no children to support her. The couple had been married thirteen years when James died in 1887.²⁶⁴ Alice continued to rent a house in Oatlands and was most likely still there when she died in 1900.²⁶⁵ Alice Tobin's case demonstrates the difficulty of surviving when a partner was institutionalised and when public aid was reduced or no longer available. Marriage was one of the few options for survival.

James Thomas Moy (27 September 1860); AOT, RGD 33/42 1864 Oatlands No.1381: Jane Ann Moy (19 March 1864).

²⁵⁹ AOT, HSD 247/1 Folio 606: William Moy; AOT, RGD 35/38 1869 New Norfolk No.359: William Moy (23 September 1869).

²⁶⁰ AOT, Legislative Council Paper No.47/1871 p.38: Return of Persons who were in receipt of public funds on 1 December 1870. See also I. Schaffer & Joyce Purtscher, *The Sick and the Poor in Tasmania 1870 Persons in Receipt of Public Aid*, Hobart, 1994, p.43.

²⁶¹ AOT, RGD 33/7 1860 Hobart No.3771: James Thomas Moy (27 September 1860); AOT, RGD 35/7 1874 Oatlands No.520: James Thomas Moy (7 April 1874).

²⁶² AOT, RGD 37/33 1874 Oatlands No.597: Moy/Thrower (19 July 1874).

²⁶³ AOT, RGD 35/43 1874 Oatlands No.520: James Thomas Moy (7 April 1874).

²⁶⁴ AOT, RGD 35/56 1887 Oatlands No.1015: James Thrower. This entry appears on the *Tasmanian Pioneers Index* as Thomas Thrower.

²⁶⁵ HTG Valuation Roll 5 March 1895 p.643; HTG Valuation Roll 8 February 1898 p.432; *Tasmanian Death Certificate* 1900 No.0586: Mary 'Thower'.

This is also illustrated by the case of Bridget Dooling, who also was widowed and remarried.²⁶⁶ A frequent absconder, Bridget gave birth to a daughter in the Female House of Correction in 1851.²⁶⁷ Days after receiving her Certificate of Freedom on 31 March 1864, Bridget married Michael Dawley alias James Murphy, the father of her three children, who were known as Charles Murphy, John Murphy, and Rachel Murphy.²⁶⁸ Michael Dawley had a reputation as an 'idle, bad character'.²⁶⁹ In April 1864, he was admitted to hospital in Hobart, where he died in July.²⁷⁰ Bridget received charitable aid until, six months later, in January 1865, she married John Sullivan alias Kargeeg, possibly at the instigation of those paying her relief.²⁷¹ The marriage was fraught with difficulty, complicated by the fact that Sullivan, a habitual drunkard, was also widowed and brought four young children with him to the marriage.²⁷² Soon after their marriage, Sullivan deserted Bridget, leaving her with eight children under the age of ten.²⁷³ Bridget was forced to seek assistance, and applied for the admission of the children to the Orphan School. A good tradesman

²⁶⁶ AOT, CON 41/24 and CON 15/6 Bridget Dooling *Australasia* 1849 No.682.

²⁶⁷ AOT, CON 41/24 and CON 15/6 Bridget Dooling *Australasia* 1849 No.682; AOT, RGD 33/4 1851 Hobart No.358: Agnes 'Doolan' (13 April 1851).

²⁶⁸ AOT, RGD 37/23 1864 Hobart No.252: Doolan/Dawley (4 April 1864); AOT, SWD 26/8 1864: Murphy.

²⁶⁹ AOT, CON 33/85, CON 14/34 and CON 18/47 Michael Dawley *Tory* 1847 No.19651. Tried in Monaghan in 1846, he arrived in Van Diemen's Land on the *Tory* (2) in 1847, sentenced to transportation for 15 years for robbery. He had a child in Monaghan.

²⁷⁰ Joyce Purtscher (comp.) *Deaths at the General Hospital Hobart January 1864-June 1884* (Mt. Stuart, 1999). See also AOT, RGD 35/7 1864 Hobart No.4593: Michael or James Dawley or Murphy (29 July 1864).

²⁷¹ AOT, RGD 37/24 1865 Hobart No.259: Murphy or Daily/Sullivan (7 January 1865). See AOT, CON 33/49 and CON 14/25 John Kargeeg *HMS Anson* 1844 No.11592. A shoemaker, he was tried in Cornwall on 11 April 1842 and was sentenced to transportation for 7 years for larceny. See also AOT, SWD 26/7 1864: Murphy.

²⁷² AOT, SWD 26/7 1864: Murphy. Kargeeg married Jane Byrne *Arabian*, who died in November 1864. See also Joyce Purtscher (comp.) *Deaths at the General Hospital Hobart January 1864-June 1884*, Mt. Stuart, 1999.

²⁷³ AOT, SWD 26/7 1864: Murphy.

but often drunk, Sullivan was accused of ill-treating his wife and in 1865 was gaoled for failing to maintain his family.²⁷⁴ The couple, however, must have reconciled their differences, for they later had three children of their own.²⁷⁵

For many of the deliberate arsonists, marriage was a survival strategy, providing some form of economic security. Bridget Dooling's case highlights the economic precariousness of convict women once freed, especially where the choice of partner was poor and there were many children. Without a husband, she was forced to rely on charitable or government assistance, including the support of the Orphan School.

Single women

In Australia, at the end of the nineteenth century, 40 per cent of women and 30 per cent of men remained unmarried at the age of fifty.²⁷⁶ Throughout the century, marriage rates had been high for women and lower for men.²⁷⁷ While some unmarried women may have been in *de facto* relationships, others chose to remain

²⁷⁴ AOT, LC 247/32 14 February 1865.

²⁷⁵ AOT, RGD 33/9 1866 Hobart No.8599: Mary Ann Sullivan (12 June 1866); AOT, RGD 33/9 1868 Hobart No.9802: Daniel Sullivan (6 January 1868); AOT, RGD 33/10 1870 Hobart No.1464: Sarah Jane Sullivan (6 November 1870).

²⁷⁶ Kingston, *Oxford History*, p.119.

²⁷⁷ Kirkby and Golder, 'Marriage and divorce law', pp.155-156. See also McConville, 'The Victorian Irish', p.5: McConville found that most emigrant Irishwomen in Victoria eventually married – of Irishwomen who died in 1891, only 1 in 10 had never married. See also Morgan, 'This Land of Plenty', p.82, who says this is a lot, really, considering that women were so outnumbered by men and suggested that some remained single from choice rather than force of circumstance. The high rate of marriage was in contradiction to Irish marriage patterns elsewhere – in Ireland and America, large numbers of Irishwomen remained single, as did large numbers of Irishwomen in Sydney in the last quarter of the nineteenth century: see Morgan, 'This Land of Plenty', pp.82-83; Diner, *Erin's Daughters*, p.45; Fisher, 'Sydney Women and the Workforce 1870-90', p.104. It is not clear whether single included cohabiting.

single.²⁷⁸ In Van Diemen's Land, the exodus of men to the Victorian goldfields after 1851 may have been a factor in determining marriage patterns.

Estimating the number of convict women who remained single is difficult. For eleven of the deliberate arsonists, or 14 per cent, no marriage record has been located.²⁷⁹ As well, no marriage has been located for four of the women designated 'marginal deliberate arsonists'.²⁸⁰

As mentioned previously, in some instances, the absence of a marriage record can be attributed to the early death of the convict woman or her reunion with a convict husband.²⁸¹ Some may have not married because they were already married, though this in itself was not a disincentive. Alice Collins was reunited with her transported husband, Denis.²⁸² Eliza Morrison stated that her husband, William, was in

²⁷⁸ Morgan, 'This Land of Plenty', pp.84-84. See also Rushen, 'Free, single and female', pp.229-30.

²⁷⁹ See Appendix Five: No marriage.

²⁸⁰ AOT, CON 41/24 Mary Crowley *Australasia* 1849 No.1030; AOT, CON 41/24 Bridget Scanlon *Australasia* 1849 No.892; AOT, CON 41/30 and CON 15/7 Bridget Bryan *Blackfriar* No.110; AOT, CON 41/33 and CON 15/7 Catharine Byrne *John William Dare* 1852 No.1168.

²⁸¹ AOT, CON 41/24 Bridget Butler *Australasia* 1849 (no number): she died during the voyage. See AOT, Adm. 101/6 Reel 3189: Surgeon's Report *Australasia* 1849. Other women died shortly after arrival: see AOT, CON 41/26 Jane Williams 2nd *Earl Grey* 1850 No.855; AOT, CON 41/22 Ellen Gallavan *Maria* 1849 No.485; AOT, CON 63/2: Ellen Gallavan; AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356 and AOT, CON 63/2 Maria Lynch; AOT, CON 41/30 Eliza Morrison *Earl Grey* 1850 No.1093 and AOT, RGD 35/5 1855 Hobart Nos.127 & 37: Morrison. Mary Nolan alias Butler was institutionalised from 1861 to her death in 1872, and this may be why she did not marry, although age may also have been a factor: she was 60 when she arrived in 1849: see AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208 and AOT, HSD 51/1 Folio 233: Mary Nolan; AOT, HSD 52/2 Folio 132 and Folio 292: Mary Nolan.

²⁸² AOT, CON 41/26 Alice Collins *Earl Grey* 1850 No.1068; AOT, CON 33/94 Dennis Collins *Hyderabad* (2) 1849 No.21794.

America.²⁸³ Eliza does not appear to have remarried in the colony; she died in July 1855, five years after arrival.²⁸⁴

For the remaining women for whom marriage records have not been found, it is impossible to say whether they did not marry or whether the marriage record simply cannot be located. As noted earlier, some may have cohabited, rather than married, or may have remained single. Eliza Guilfoyle does not appear to have married in Tasmania, at least under that name; she may have married as Eliza Warren at Bothwell in 1858.²⁸⁵ The case of Eliza Guilfoyle highlights the difficulty of tracking a convict woman if she deliberately changed her name to prevent detection.

A similar case is that of Mary Hennessy, a nineteen-year-old nursemaid when she arrived from Tipperary in 1851, sentenced to transportation for seven years. She had a number of colonial offences while under assignment, including being drunk and absent without leave. In May 1853, she was sentenced to nine months' hard labour

²⁸³ AOT, CON 15/6 Eliza Morrison *Earl Grey* 1850 No.1093; AOT, CON 41/30 Eliza Morrison *Earl Grey* 1850 No.1093; AOT, RGD 35/5 1855 Hobart No.37: Eliza Morrison (6 July 1855); AOT, RGD 35/5 1855 Hobart No.127: Eliza Morrison (6 July 1855); AOT, CON 63/2 (1 July 1855) 'Elisa' Morrison *Earl Grey* No.1903.

²⁸⁴ AOT, CON 41/30 Eliza Morrison *Earl Grey* 1850 No.1093; AOT, RGD 35/5 1855 Hobart Nos.127 & 37: Morrison.

²⁸⁵ In 1862, Eliza appeared in court in Bothwell as 'Eliza Guilfoyle *Australia* uxor Thomas Green': AOT, LC 493/3; AOT, CON AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518. William Green and Eliza Warren, both single and of full age, were married in the Parish Church of England at Bothwell, on 9 October 1858: AOT, RGD 37/17 1858 Bothwell No.3: Warren/Green (9 October 1858). In 1859, a son, James, was born to William Green, a farm labourer, and Eliza formerly Warren. The birth was registered by William Green, father, of Ibbott Vale: AOT, RGD 33/37 1859 Bothwell No.51: James Green (27 November 1859). William Green was most likely the convict of that name who arrived on the *Oriental Queen*: AOT, CON 33/14, CON 14/47 and CON 18/59 William Green *Oriental Queen* 1853 No.27687. He was assigned to Todd at Bothwell in 1853 and appears to have remained there at least until 1857, when he received his Free Certificate: AOT, LC 49/1 (Bothwell) 24 August 1854; AOT, LC 49/3 (Bothwell) 9 November 1855. In 1875, in the Oatlands Supreme Court, he was sentenced to imprisonment for 1 month for larceny but there is little else known about him.

for being absent without leave, and being in the bush with a man.²⁸⁶ A year later, Mary Hennessy and Josiah Jenks applied for permission to marry, but there is no record of marriage.²⁸⁷ Mary committed several more colonial offences, including five for absconding, before giving birth to a child in June 1857.²⁸⁸ She was finally granted a ticket-of-leave in June 1858, but continued to offend.²⁸⁹ She was granted her Certificate of Freedom in Hobart in 1858. No marriage record has been located. Mary Hennessy, however, appears to have lived with William Birch. The couple had a son, born in 1863,²⁹⁰ and a daughter, born in 1866.²⁹¹ Mary died in 1867 as Mary 'Burch'.²⁹²

For only two women, both marginal deliberate arsonists, there is no apparent reason for not marrying and there is no evidence of a common-law marriage. The first, Catharine Byrne, a twenty-three-year-old country servant from County Wicklow, was assigned to a number of Hobart Town employers but was a frequent offender.²⁹³ She was granted a ticket-of-leave in August 1855. It was revoked in December 1856 and

²⁸⁶ AOT, CON 41/35 and CON 15/7 Mary Hennessy *Martin Luther* No.950.

²⁸⁷ AOT, CON 52/7 p.220: Hennessy/Jenks.

²⁸⁸ AOT, CON 41/35 Mary Hennessy *Martin Luther* No.950.

²⁸⁹ AOT, LC 247/28 10 August 1858: fined 10/- for being drunk. On the same day, she was given 3 months' hard labour for absconding. AOT, LC 247/28 16 July 1859: charged with being a 'common prostitute'; AOT, LC 247/32 5 January 1865: as Mary Birch, drunk and incapable.

²⁹⁰ AOT, RGD 33/8 1863 Hobart No. 6008: Henry William Birch (2 April 1863).

²⁹¹ AOT, RGD 33/9 1867 Hobart No.8940: Emma Birch (24 November 1866).

²⁹² AOT, RGD 35/7 1868 Hobart No.7093: Mary Burch (19 December 1867).

²⁹³ AOT, CON 41/33 Catharine Byrne *John William Dare* 1852 No.1168. She was punished twice for being absent without leave, receiving 2 months' hard labour in October 1852 and 3 months' hard labour in April 1853. She again absconded in April 1853 and then again in September 1853. She received 10 days' solitary confinement at the Cascades Female Factory for being absent from her authorised place of residence. Again, in November 1855, she received another 6 months' hard labour for absconding. Later that month, she was found guilty of larceny under £5; her existing sentence of transportation was extended 18 months. See also *HTG* 11 October 1853.

was restored in July 1857. The unexpired portion of her sentence was remitted on 13 March 1857 and she was allowed to enter private service. In August 1857, she was back at the House of Correction, having received two months' hard labour for misconduct while at the Queen's Orphan School. She received her Certificate of Freedom in Hobart on 29 June 1858.²⁹⁴ There is no further record of her.

The second woman, Bridget Bryan, had no colonial offences recorded on her conduct record. She does not appear to have applied for permission to marry. She received a ticket-of-leave in August 1854; her conditional pardon was approved in May 1856.²⁹⁵ There is no further record of her.

Conclusion

Marriage was the expected state for the deliberate arsonists as it was for other colonial women. In all, marriages for 87 per cent of the deliberate arsonists were located; of the remaining eleven women, one was reunited with her husband in the colony and six died shortly after arrival. Only 5 per cent appear to have remained single.

Irish marriage patterns were not necessarily transferred to colonial Van Diemen's Land. It is problematic whether the women offended in order to get a husband. Had they stayed in Ireland, Irish marriage patterns – in transition in the Famine and post-

²⁹⁴ AOT, CON 41/33 Catharine Byrne *John William Dare* 1852 No.1168.

²⁹⁵ AOT, CON 41/30 and CON 15/7 Bridget Bryan *Blackfriar* No.1105. There was also a Bridget O'Brien on the *Blackfriar*.

Famine period – meant Irish men and women were less likely to marry than before the Famine and those that did marry married later. In Van Diemen's Land, women were encouraged to marry and the gender imbalance meant that there was no shortage of potential mates, even after the exodus of men during the Victorian gold rush. Cohabitation, too, was an acceptable form of marriage, at least to some groups,²⁹⁶ including some of the deliberate arsonists. However, rules determined when and who women under sentence could marry. Marriage was a form of social control.

One of the fundamental questions of this thesis relates to the colonial experience of the arsonists, and whether the women were able to effect a change in their circumstances or whether they remained marginalised and impoverished. Implicit in the exertions of the arsonists to engineer transportation was a belief that it would lead to a better life. Marriage may not have been the goal of the arsonists but it was undeniably a significant life experience. Perhaps more than any other event, marriage determined the type of life that the deliberate arsonist had once she was 'on her own hands'. It was a determinant of economic success in a society where economic opportunities for single women were limited. A stable marriage with a steady income ensured adequate food and a degree of comfort. Upward mobility was limited, with most women marrying labourers and rarely moving out of an unskilled occupational grouping. Even where they did, life was often a struggle.

²⁹⁶ Finlay, 'Divorce and the Status of Women', pp.18-20.

Some historians have considered marriage to be the benchmark of success for colonial women. Babette Smith suggested that a wise choice of husband, by instinct or good judgement, enabled convict women to have a second chance: it was critical to their success.²⁹⁷ Fitzpatrick went further, stating that 'For many women, social success was measured not by canny choice of husband, but by marriage itself and the bearing of children who could look forward to a better life than their parents'.²⁹⁸ In the case of free Irish women migrants, Fitzpatrick stated, marriage probably offered better chances of upward mobility than employment and 'Irish girls were often credited with serpentine skills in marrying "out of their class" at the expense of credulous Australian men'.²⁹⁹ For Irish convict women, including the deliberate arsonists, this seems to have been rarely the case.

Not surprisingly, given the importance of marriage to the colonial experience of the deliberate arsonist, the majority – 80 per cent – applied for permission to marry (some of them several times and some of them several times to the one person). Only a handful do not appear to have sought permission to marry. The majority of those who applied for permission to marry did, in fact, marry. The women were not put off by refusal, but continued to apply until they achieved the desired result. The willingness to apply for permission to marry demonstrates an enthusiasm for marriage and evidence of persistence in the face of repeated refusal by the authorities.

²⁹⁷ Babette Smith, *A Cargo of Women. Susannah Watson and the Convicts of the Princess Royal*, 1988, p.67.

²⁹⁸ David Fitzpatrick, 'Irish Immigration to Australia 1840-1914', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.57.

²⁹⁹ Fitzpatrick, 'Irish Immigration', p.57.

It reveals a readiness to adapt to peculiar colonial circumstances, with only three apparently flaunting the regulations and marrying without permission. The deliberate arsonists, then, made effective use of the opportunities afforded by the convict system, perhaps an indication of success.

Unlike free Irish post-Famine migrants, the deliberate arsonists showed no indication of those skills identified by Fitzpatrick as manipulative and 'serpentine' and which facilitated non-endogamous marriage to gullible Australian men.³⁰⁰ Evidence suggests that the deliberate arsonists chose partners from similar socio-economic backgrounds, if not always from the same nationality or religion. Most of the arsonists, over 56 per cent, married convicts or emancipated convicts.

Marriage also provided the women with an opportunity to establish families and family networks, considered by some historians to be a benchmark of success.³⁰¹ Given the prevalence of marriage in colonial Tasmania, and criticism of cohabitation in some sectors of society,³⁰² marriage contributed to social status.

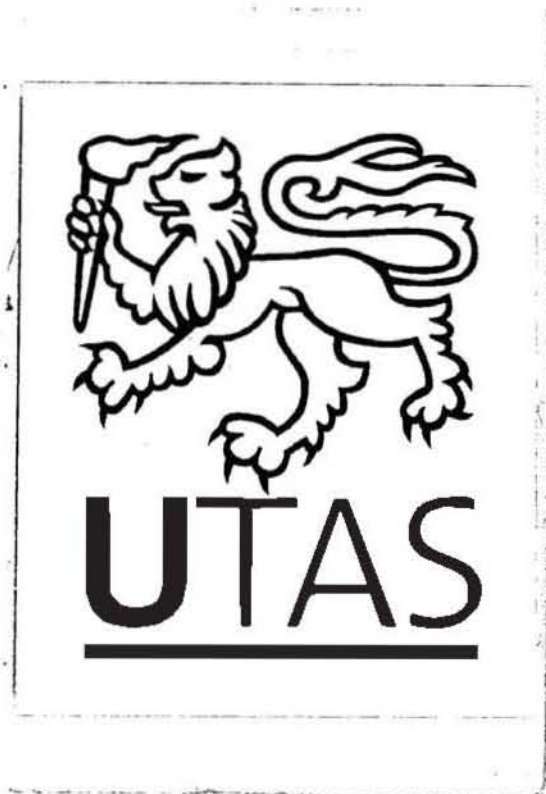
Marriage was an important life decision for the deliberate arsonists. It is likely that, when they were transported, they expected to marry. It is impossible to say how they perceived marriage, but it is plausible that they viewed marriage as providing some

³⁰⁰ Fitzpatrick, 'Irish Immigration', p.57.

³⁰¹ Fitzpatrick, 'Irish Immigration', p.57.

³⁰² On this point, see Finlay, 'Divorce and the Status of Women', pp.19-20.

form of economic security and physical protection. It was a strategy for survival and a means of exercising agency.



Chapter Five: Families



Figure 39: Alice (Julian) Walker and her grandchildren, Victoria, c1920

Photo courtesy of Gordon Roberts

Shortly before her death in 1920, Alice (Julian) Walker was photographed surrounded by her grandchildren. Nearly seventy years earlier, Alice had left behind in Ireland

her mother and five siblings.¹ In colonial Tasmania and Victoria, she re-created her family, giving birth to eight children.

Families were an important component of the colonial experience of the deliberate arsonists. Examining these can reveal something of their lifestyle and life experience, and can thus contribute to an understanding of the fourth question of this thesis: that is, what was the colonial experience of the women and whether the deliberate arsonists succeeded in changing their circumstances. This chapter explores the nature of convict families, and discusses the appropriateness of the historiography of convict mothers, articulated by Robinson, Oxley and Damousi, to a specific group such as the deliberate arsonists.

Irish and Colonial Families

Lees suggested three stages in the transformation of the structure and role of Irish families.² In the first, pre-industrial stage, the family was the unit of production, held together by the need for mutual economic cooperation. In the second stage, industrialization disrupted work patterns, creating a male breadwinner and forcing women and children out of the labour market and into economic dependency. Consequently, roles within the family and patterns of authority also changed. The third stage saw the evolution of the 'symmetrical family' in which the internal balance of the family was restored, authority was divided and roles within the family

¹ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443.

² Lynn Hollen Lees, *Exiles of Erin: Irish Migrants in Victorian London*, Manchester, 1979, pp.140-141.

were less rigidly segregated by sex.³ In terms of Irish family structure, Lees argued that stage one, the pre-industrial family, described the Irish family before, and immediately after, migration.⁴ It was a patriarchal family held together by economic need, with men, women and children sharing tasks of production. In colonial Van Diemen's Land, too, this was the dominant form of the family. As with colonial marriage patterns, the shape of the family was complicated by the intervention of the penal system.

Very little work has been done on the children of convicts. As Kociumbas stated, these childhoods are not easily retrieved.⁵ Those historians who have considered the children of convicts at all have usually done so in the context of early colonial New South Wales.⁶ The early stage of the debate concentrated on the physical appearance of the children: to a large extent, they were considered remarkably healthy physical specimens, who, despite the influences of convict parents, had not inherited their vices.⁷ Macnab and Ward argued that those children who did not know their convict parents were better off than those who did; most of the convicts were 'demoralized,

³ Lees, *Exiles of Erin*, pp.140-141. Lees adapted the theory expressed by Michael Young and Peter Willmott, *The Symmetrical Family: A Study of Work and Leisure in the London Region*, London, 1973, pp.23-30.

⁴ Lees, *Exiles of Erin*, p.140.

⁵ Jan Kociumbas, *Australian Childhood: a history*, St. Leonards, NSW, 1997, p.xvi.

⁶ Michael Belcher, 'The Child in New South Wales Society: 1820-1837', unpublished Ph.D. Thesis, UNE, 1982; Deborah Oxley, *Convict Maids. The Forced Migration of Women to Tasmania*, Cambridge, 1996, pp.10, 103-104; Ken Macnab & Russel Ward, 'The Nature and Nurture of the First Generation of Native-born Australians,' *Historical Studies*, Vol.10, No.39, 1962, p.291. Exceptions include Joy Damousi and Jan Kociumbas, who also considered Van Diemen's Land: see Joy Damousi, *Depraved and Disorderly. Female Convicts, Sexuality and Gender in Colonial Australia*, Cambridge, 1997, and Kociumbas, *Australian Childhood*.

⁷ Macnab and Ward, 'Nature and Nurture', pp.289-291; Kociumbas, *Australian Childhood*, pp.38-39.

dissolute, drunken, and lazy'.⁸ Furthermore, as Schedvin and Schedvin argued, convicts generally had failed to learn competent parenting skills: they were themselves the products of parental neglect and were emotionally deprived.⁹

Portia Robinson extended the debate, recognising that convict mothers could also be 'good mothers'. She argued that convict women established a culture based on families, intimacy and warmth; that, although they may have arrived as members of a criminal class, their 'responses to colonial opportunities and disadvantages were as stridently varied and determinative as were those of women who came free and unconvicted'.¹⁰ Oxley, on the other hand, suggested that a good convict mother was one who contributed to the economy, who was an active economic agent.¹¹ Her children grew up strong and healthy, and contributed to the early success of New South Wales.¹² Damousi referred to the 'paradox of convict mothers' in which procreation was valued but convict mothering carried negative connotations.¹³ She stated that, while colonial authorities attempted 'to "feminise" convict women through their productive and reproductive labour, in fact, maternity – a crucial part of the nineteenth-century femininity – was denied to them'.¹⁴ If maternity is defined as

⁸ Macnab and Ward, 'Nature and Nurture', p.289.

⁹ M.B. Schedvin and C.B. Schedvin, 'The nomadic tribes of urban Britain: a prelude to Botany Bay', *Historical Studies*, Vol.18, 1978, pp.257, 261-262, 264.

¹⁰ Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Convict Society*, Melbourne, revised edition, 1993, p.8.

¹¹ Oxley, *Convict Maids*, p.10.

¹² Oxley, *Convict Maids*, p.104.

¹³ Damousi, *Depraved and Disorderly*, p.119.

¹⁴ Damousi, *Depraved and Disorderly*, p.119. For children in female factories, see also Laurel May Heath, 'The Female Convict Factories of New South Wales and Van Diemen's Land: An Examination of their Role in the Control, Punishment and Reformation of Prisoners between 1804 and 1854', unpublished M.A. Thesis, ANU, 1978; Joan C. Brown, 'Poverty is Not a Crime'. *Social*

motherhood, it is difficult to see how Damousi's argument applies to the deliberate arsonists, many of whom were mothers. If maternity is defined as motherliness, there is little evidence either way.

In the debate about the nature of convict mothering, the children themselves have been obscured. Where they have been considered, it has been as part of the debate about whether convict mothers were good mothers. This debate, too, has largely been limited to the currency lads and lasses of early colonial New South Wales. Colonial children generally have been invisible in history in much the same way that, until recently, women were invisible. Similarly, until recently, convict fathers have been obscured.¹⁵

In terms of the perception of the qualities of children of convicts, early colonial New South Wales and penal Van Diemen's Land in the mid-nineteenth century were worlds apart. By the 1860s, in Tasmania, there is some evidence that the early positive, optimistic attitude towards the children of convicts had dissipated. Increasingly, they were considered by some to be an economic burden and a moral problem.¹⁶

Services in Tasmania, 1803-1900, Hobart, 1972; Bryan Gandevia, *Tears Often Shed. Child Health and Welfare in Australia from 1788*, Rushcutters Bay, NSW, 1978; Hilary Weatherburn, 'The Female Factory' in Judy Mackinolty and Heather Radi (eds), *In Pursuit of Justice. Australian Women and the Law 1788-1979*, Sydney, 1979, pp.18-30.

¹⁵ For a discussion of convict fathers, see Tina Picton Phillips, 'Convicts, communications and authority: Britain and New South Wales, 1810-1830', unpublished Ph.D. Thesis, University of Edinburgh, 2001.

¹⁶ AOT, SWD 26/1-9 *passim*; Stefan Petrow, 'Arabs, Boys, and Larrikins: Juvenile Delinquents and their Treatment in Hobart, 1860-1896', *Australian Journal of Legal History*, Vol.2, 1996, pp.37-59;

Convict families were created in three ways: firstly, children accompanying convict parents; secondly, children left behind being sent for; and thirdly, children who were born in Van Diemen's Land or other colonies. There were also various permutations of family structure, with some families resembling the modern 'blended' family.

Children who accompanied convict parents

The deliberate arsonists were unusual in that, unlike many other Irish convict women, none appear to have had children in Ireland or brought children with them to Van Diemen's Land.¹⁷ Perhaps the lack of family ties made it easier for the deliberate arsonists to contemplate transportation as an option to escape from Famine-ravaged Ireland. It also meant they were an ideal human capital resource: young, skilled and adaptable.

Among the Irish female arsonists generally, four were accompanied by free children. Those women who brought children with them demonstrated a range of motives for committing arson. At least two of the women who brought children with them appear

and 'Juvenile Delinquents in Launceston 1860-1896', *University of Tasmania Law Review*, Vol.17, No.2, 1998, pp.134-163.

¹⁷ Portia Robinson, *The Hatch and Brood of Time. A study of the first generation of native-born White Australians 1788-1828. Vol. One*, Melbourne, 1985: Robinson, writing of early NSW, termed this group 'migrant children', noting that the number of children who arrived with a convicted parent was small. She added there is no accurate way of determining the number of children who accompanied convict women because the evidence is incomplete and contradictory. See also Stephen Nicholas and Peter R. Shergold, 'Convicts as Migrants' in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, p.48: from their study, they calculated that the average number of children per convict parent arriving in NSW was 2.8, and 8,882 children were left behind.

to have committed arson for revenge.¹⁸ A third woman implied that she had been framed by the father of her child.¹⁹ The fourth woman was Catherine Smith. With her husband, Owen Smith and three of their six children, she was convicted of arson in 1842 in Longford; all were transported.²⁰ No reason for committing the crime was recorded. The remaining three children accompanied their family.²¹ In a petition to the Lord Lieutenant General and General Governor of Ireland in May 1842, Owen Smith stressed his family's innocence.²² Possibly the petition was a strategy to ensure that his remaining family were sent out with the convicted family members.

Overall, however, it is difficult to unravel the policy surrounding the bringing of the children of convicts to Van Diemen's Land. Lena Rohan suggested that, initially,

¹⁸ Margaret Doogan, a 40-year-old widowed country servant with 3 children, burned a house in Clare. According to a newspaper report, the trial judge remarked that she was 'not led to commit the crime through distress but solely for revenge, in consequence of being dispossessed of land now in the possession of her prosecutor': AOT, CON 41/26 and CON 15/7 Margaret Doogan *Earl Grey* 1850 No.7001; *Tipperary Vindicator* 11 July 1849 p.3 col.2; *Leinster Express* 4 July 1849 p.4 col.7. Margaret Purcell also committed arson for revenge, stating that 'I did it because he refused to support my child': AOT, CON 41/26 and CON 15/4 Margaret Purcell *John Calvin* No.366.

¹⁹ AOT, CON 15/3 Honora Conneelly *Phoebe* 1845 No.734: 31-year-old Galway country servant Honora Conneelly stated: 'I was living with my prosecutor, he wanted to get rid of me and said that I set fire to a Cabin'. Her prosecutor, John Curran, was the father of her child.

²⁰ AOT, CON 40/10 and CON 15/2 Catherine Smith *Waverley* (2) 1842 No.547 and CON 40/10 Mary Smith *Waverley* (2) 1842 No.681; AOT, CON 33/28 and CON 14/17 Owen Smith *Kinnear* (1) 1842 No.6817; AOT, CON 33/28 Thomas Smith *Kinnear* (1) 1842 No.6818; AOT, CON 33/28 Peter Smith *Kinnear* (1) 1842 No.6819. A sixth person, Anthony Kiernan, was tried with the Smith family; in 1850, Kiernan successfully applied for his wife, 40-year-old Anne, and family – Ellen aged 11; Lawrence aged 9; and Anthony aged 7 – to join him in Van Diemen's Land. See AOT, CON 33/28 Anthony Kiernan *Kinnear* 1842. Anthony Kiernan's family arrived in Van Diemen's Land on the *Anne Thompson* in April 1851: see AOT, CSO 24/262/5875. See also Joyce Purtscher, *Unnamed Irish Boys on Convict Ships 1841-1843 sent to the Queen's Orphanage Hobart, Van Diemen's Land*, New Town, 1993.

²¹ Ten-year-old Edward arrived with his father and two transported brothers aboard the *Kinnear*, and Catherine and Rose with their mother and older sister, Mary, on the *Waverley* in 1842. It is interesting to note that children also accompanied Irish convict men. Joyce Purtscher, in *Children in Queen's Orphanage, Hobart Town 1828-1863*, Mt. Stuart, nd, identified 46 sons, admitted to the Queen's Orphan School directly on arrival, who accompanied their convict fathers to Van Diemen's Land; all were from Ireland. See also Purtscher (comp.), *Unnamed Irish Boys*.

²² NAI, CRF 1842 S20.

except in extreme circumstances, children were allowed to accompany their mothers. She also concluded that there was 'an almost deliberate vagueness' about the policy.²³ Record-keeping was erratic and appeared in a number of different sources.

Children who followed their mothers

Kociumbas argued that British officials were largely indifferent to the fate of children left behind.²⁴ Some women applied for their children to be sent out to them in Van Diemen's Land. This was a formal process, and some of the records survive.²⁵ Most of the requests relate to male convicts, requesting that their wives and families join them.²⁶ However, there were some requests made by women, and some were women tried in Ireland. Not all requests were approved and not all those sent for agreed to come. Arsonist Margaret Doogan, who brought three of her four children with her on the *Earl Grey* in 1850, applied eleven years later for a passage for twenty-three-year-old Bridget, the daughter she had left behind.²⁷ Some convicts, once settled in the colony, turned their thoughts to those left behind: families were valued.

²³ Rena Lohan, 'Sources in the National Archives for research into the transportation of Irish convicts to Australia', *Journal of the Irish Society for Archives*, Vol.3, No.1, Spring 1996, pp.17-18. See also Rena Lohan, 'The Management of female convicts sentenced to transportation and penal servitude 1790-1898', unpublished M.Litt. Thesis, University College Dublin, 1989.

²⁴ Kociumbas, *Australian Childhood*, p.40.

²⁵ The policy and practice of convict family reunion has been addressed by Lohan, 'The Management of female convicts'; Lohan, 'Sources in the National Archives'; Jennifer Parrott, 'For the Moral Good? The Government Scheme to unite Convicts with their Families 1818-1843', unpublished Master of Humanities Thesis, University of Tasmania, 1994, pp.3-6; Jennifer Parrott, 'Agents of industry and civilization: The British Government's emigration scheme for convicts' wives, Van Diemen's Land, 1817-1840', *Tasmanian Historical Studies*, Vol.4, No.2, 1994, pp.25-30. This is discussed in detail in Chapter Three.

²⁶ Examples of Irish male arsonists who sent for their children include Patrick Stack *Lord Dalhousie*, who sent for Michael (10) and Mary (13) in 1863 and Mary (22) in 1864: AOT, CO 386/159 Reel 987; and Jeremiah Foley *Duke of Richmond* 1844 who sent for Mary (28) and Jeremiah (6) in 1849: see AOT, CO 6386/159 Reel 987.

²⁷ AOT, CO 386/159 Reel 987. See also Margaret Doogan *Earl Grey* 1850 No.700: the children who accompanied her were Patrick aged 10; Mary aged 11; and Ann aged 4. No evidence has been located

Colonial families

As depicted in Figure 39, the majority of the deliberate arsonists – 72 per cent – gave birth to at least one child in the colony. For some of the women, however, no children could be located.²⁸ No statistical studies have been done on childless convict women, but it seems likely that the deliberate arsonists were not significantly different from any other group of convict women.²⁹

For 28 per cent of the deliberate arsonists, there was no evidence of children. There are several possible reasons for this. The women may simply not have had children. Alternatively, they may have had children but not registered them: the birth of John James, son of Margaret (McNamara) and John James, does not appear to have been registered.³⁰ Anne Mahoney had six children after she married, none of whom were

for the arrival of Bridget Doogan. A slightly different example is that of the husband of deliberate arsonist Mary Nolan, who married Thomas Patterson in 1851. In May 1848, Thomas Patterson applied for a passage for his wife, who had been tried with him but was acquitted. A second application, the following year, mentions 3-year-old John Patterson, and notes *Ramillies* 1850, but the outcome is not clear: AOT, RGD 37/10 1851 Hobart No.592: Nowland/Patterson (31 March 1851); AOT, GO 33/63 p.1493. For Patterson, see AOT, CON 33/80 and CON 14/29 p.302: Thomas Patterson *David Malcolm* 1845 No.18615: he arrived in Hobart on the *David Malcolm* on 25 August 1845. Tried in the Central Criminal Court, London, on 10 June 1844, he was sentenced to transportation for 15 years for robbery with violence; he stole a watch. His wife, Elizabeth, was tried with him but was acquitted. Patterson was sent first to Norfolk Island. In 1848, 23-year-old Elizabeth Patterson, was living at 'St. Giles and St. George, Drury Lane, Bloomsbury, London: AOT, CO 386/154 Reel 987 p.7.

²⁸ See Appendix Seven No Children Located. For Irish fertility rates, see L.A. Clarkson, 'Love, Labour and Life: Women in Carrick-on-Suir in the Late Eighteenth Century', *Irish Economic and Social History*, Vol.XX, 1993, pp.18-34; Liam Kennedy and L.A. Clarkson, 'Birth, Death and Exile: Irish Population History, 1700-1921' in B.J. Graham and L.J. Proudfoot (eds), *An Historical Geography of Ireland*, London, 1993, pp.164-169 (163-164).

²⁹ See, for example, Christine Woods, *The Last Ladies. Female Convicts on the Duchess of Northumberland*, 1853, Claremont (Tas.), 2004; and Trudy Cowley, *A Drift of Derwent Ducks: A study of the female Irish convicts transported on the Australasia from Dublin to Hobart Town, 1849*, forthcoming publication.

³⁰ AOT, CON 41/35 Margaret McNamara *Martin Luther* 1852 No.1419 ; AOT, RGD 35/5 1856 Hobart No.1153: Margaret James (2 March 1856); Joyce Purtscher (comp.), *Father John Murphy's 'Saddlebag' Records. Catholic Baptism Huon District 1855-1864*, Mt. Stuart (Tas.), 1999: born in 1856 on the same day as his mother died of 'fever', the child was baptised 2 days later. See also

registered.³¹ Births might also have been registered under another name or under a spelling variant: Bridget Dooling's daughter, Rachel, appears in the Orphan School records as Rachel Murphy, but her birth was registered as 'Rachael Dolley', daughter of Michael and 'Ann' (formerly Dooling).³²

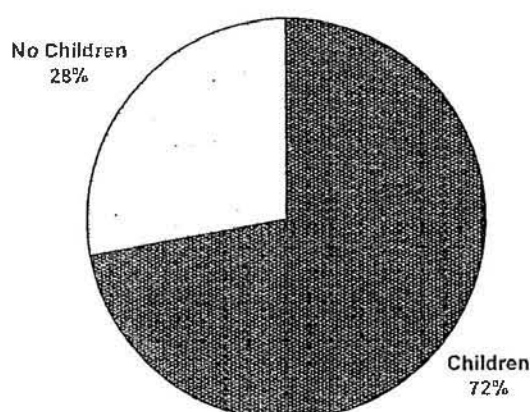


Figure 40: Proportion of deliberate arsonists who had children after arrival (n=79).

It is apparent, too, that there was certain fluidity to relationships that belied official description. This is particularly evident in applications for admission to the Orphan

Rebecca Kippen, 'Death in Tasmania. Using civil death registers to measure nineteenth-century cause-specific mortality', unpublished Ph.D. Thesis, ANU, 2002. pp.24-27, 29, 35: Kippen argued that birth registration, unlike death registration, was far from complete in the 1850s. Denison considered abolishing the registration system in 1847: see AOT, LCT 20/7/1847.

³¹ Gwen Foster, *personal communication*, 22 November 2004. Mrs Foster is the great-granddaughter of Anne Mahoney and William Bishop. The death of the eldest child was registered but not his birth: AOT, RGD 35/24 1855 Launceston No.1644; William Bishop (29 January 1855).

³² AOT, RGD 33/39 1861 Horton No.1264: Rachael 'Dolley' (10 May 1861). Her father was Michael Dawley alias James Murphy.

School, in which there were many family groupings resembling modern 'blended' families. Details of these family structures emerge from the records when one partner, for example, refused to maintain another person's child. Children were frequently adopted unofficially, simply left in the care of an adult, or sometimes even sold.³³

Only one of the deliberate arsonists was obviously past child-bearing age on her arrival in the colony: Mary Nolan alias Butler was sixty when she arrived in 1850.³⁴ In her study, demographer Rebecca Kippen suggested 15-49 years as the descriptors for child-bearing years.³⁵ Among the deliberate arsonists, some of the childless group were in their thirties when they arrived. One for whom no children can be traced was Catherine Connors who was recorded as thirty-five when she arrived in 1849. When she married in 1853, she gave her age as thirty-seven.³⁶ Similarly, no children have been traced for Rosanna Berry, who arrived in 1852. Her age was recorded as thirty when she arrived, and thirty-three when she married John Ding in 1854.³⁷ There are also instances of younger women who do not appear to have had children: Bridget McNamara, who was only twenty when she arrived on the *Martin Luther* in 1852 and was the same age the following year when she married Alexander Gilroy. She died in 1870, aged forty.³⁸ Perhaps malnutrition caused by the Famine affected the fertility

³³ AOT, SWD 26/1-8 *passim*.

³⁴ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208.

³⁵ See Kippen, 'Death in Tasmania' pp.173-193.

³⁶ AOT, CON 41/20 and CON 15/5 Catherine Connors *Lord Auckland* (3) 1849 No.934.

³⁷ AOT, CON 41/35 and CON 15/7 Rosanna Berry *Martin Luther* 1852 No.1198.

³⁸ AOT, CON 41/35 and CON 15/7 Bridget McNamara *Martin Luther* No.1420.

of some of the women.³⁹ But this remains problematic. Similarly, whether the diet and conditions in Van Diemen's Land in the mid-nineteenth century had any influence is impossible to say. No studies have been done either on the reproductive rates of convict women in Van Diemen's Land, or their use of contraception. It is impossible to determine whether the childless women were so from choice or inability to conceive.

At least four of the deliberate arsonists died in hospital soon after arrival; they had little opportunity to become pregnant.⁴⁰

'Delivered of an illegitimate child'

Illegitimate progeny were a visible reminder of the alleged profligacy of convict women. Many had their conduct records marked with the words 'delivered of an illegitimate child'. While under sentence, at least thirteen of the deliberate arsonists gave birth to illegitimate children; this is demonstrated in Figure 40.⁴¹

³⁹ John Bongaarts, 'Does malnutrition affect fecundity? A summary of the evidence', *Science*, No.208, pp.564-569; L.A. Clarkson and E.M. Crawford, 'Dietary direction: a topographical survey of Irish diet, 1836' in Rosalind Mitchison and Peter Roebuck (eds), *Economy and Society in Scotland and Ireland, 1500-1939* Edinburgh, 1988 p.191; Cormac Ó Gráda, *The Great Irish Famine*, Cambridge, 1995, pp.19-27. For studies of Irish fertility and family size, see Kennedy and Clarkson, 'Birth, Death and Exile', pp.158-159; Joel Mokyr and Cormac Ó Gráda, 'New developments in Irish population history, 1700-1850', *Economic History Review*, 2nd series, Vol.XXXVII, No.4, November 1984, pp.473-488; Joel Mokyr, 'The Deadly Fungus: An econometric investigation into the short-term demographic impact of the Irish famine, 1846-1851', *Research in Population Economics*, Vol.2, 1980, pp.237-277.

⁴⁰ AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356 and AOT, CON 63/2; AOT, CON 41/22 Ellen Gallavan *Maria* (2) 1849 No.495; AOT, CON 41/26 Jane Williams 2nd *Earl Grey* 1850 No.855; AOT, CON 41/30 Ann Blake *Blackfriar* 1851 No.1106.

⁴¹ Two pregnancies of Eliza Guilfoyle, noted on her conduct record, have not been calculated as part of the total as there is no evidence that children resulted: see AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518. A list of the women and their children appears in Appendix Six.

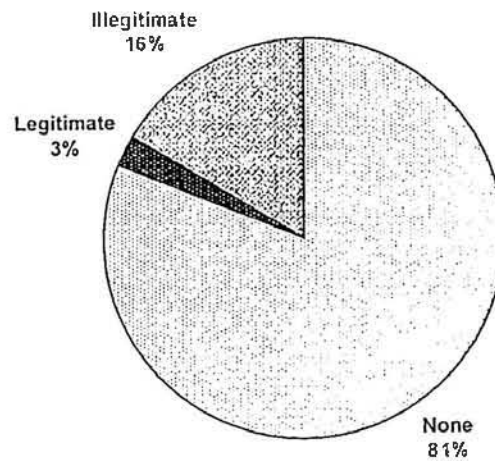


Figure 41: Deliberate arsonists who gave birth to children while under sentence [n=79].

In the absence of detailed studies, it is hard to say whether colonial patterns of illegitimacy varied from those in Ireland or elsewhere, and how much related to the complexities of the convict system. In her study of Mayo, Langan-Egan stated that it was difficult to ascertain the level of illegitimacy in Ireland before 1864, when civil registration commenced. Illegitimacy, she revealed, was rarely referred to in parish registers, the local records kept by churches. Langan-Egan also found links between illegitimate children, prostitution, and crime (particularly infanticide and desertion).⁴² Sharon Morgan argued that, in Ireland, sexuality was tightly controlled to the extent

⁴² Maureen Langan-Egan, 'Women in Mayo, 1821-1851', M.Ed. National University of Ireland, Galway, 1986 pp.66-69.

that illegitimacy rates were well below Scotland and England.⁴³ The apparent chastity of Irish girls was remarked upon by many foreign visitors, including Alexis de Tocqueville in 1835.⁴⁴ Liam Kennedy examined the relationship between famine and illegitimate births in twenty-four parishes throughout Ireland in an attempt to determine whether the abnormal conditions created by the disaster affected sexual behaviour. He rejected earlier stereotypes, concluding that there was a diverse pattern of experience at a local level, and suggested possible explanations. These included a relationship between illegitimacy and economic stress, exploitation linked to social stratification, changes in sexual behaviour due to social disintegration, and disruption of courtship patterns, with fewer pregnancies translating into marriage. Overall, however, Kennedy concluded that 'the illegitimacy ratio is especially vulnerable to random forces which might in any particular case serve to conceal systematic relationships between illegitimacy, social structure and famine conditions'.⁴⁵ This conclusion is particularly applicable to Van Diemen's Land, where it is impossible to say what determined the rate of illegitimate births: while social dislocation and sexual exploitation were undoubtedly factors, they were not solely responsible. Furthermore, an area unexplored by historians is the knowledge and practice of birth control by convict women.

⁴³ Sharon Morgan, ' "This Land of Plenty": A Study of Irish Immigrant Women in Colonial Victoria, 1840-1860', unpublished M.A. Thesis, University of Melbourne, 1986, pp.10-11. See also Hasia R. Diner, *Erin's Daughters in America. Irish Immigrant Women in the Nineteenth Century* (Baltimore 1983) p.21: for the period 1879-89 illegitimacy rates were 46-49 per 1000 children born in England; 79-85 per 1000 born in Scotland; and only 25-28 per 1000 born in Ireland. See also S.J. Connolly, *Priests and People in Pre-Famine Ireland, 1780-1845*, Dublin, 1982, p.190.

⁴⁴ Morgan, 'This Land of Plenty', pp.10-11. See also Connolly, *Priests and People*, p.192.

⁴⁵ Liam Kennedy, 'Bastardy and the Great Famine: Ireland 1845-50' in Carla King (ed.), *Famine, Land and Culture in Ireland*, Dublin, 2000, pp.6-28.

The view of Irish chastity or sexual prudence has been challenged by Dymphna McLoughlin, who argued that illegitimacy, to some extent, could be concealed because it was not subjected to sustained official scrutiny.⁴⁶ Evidence located in Poor Law Union records suggests that some single assisted women migrants sent back to workhouses for their children, once they had become settled and were earning a livelihood.⁴⁷ In penal Van Diemen's Land, however, sexuality was subject to a certain amount of official scrutiny. Certainly, while the women were under sentence, pregnancy was difficult to conceal. As well, it had an impact on women's ability to work and the women were punished for becoming pregnant.

Convict women were also valued as 'economic reproducers',⁴⁸ and illegitimacy, to a certain extent, appears to have been accepted as part and parcel of the convict system. It was the sexual behaviour and the alleged immorality of the convict women which was in question, not the fact that they had given birth to an illegitimate child.⁴⁹ The records of the convict women in Van Diemen's Land were marked 'delivered of an illegitimate child', but this seems to have been more a matter of administrative necessity than social comment. The recording of the births of legitimate children of convict women under sentence was sometimes similarly annotated. In some instances, when the mother had married and the child was legitimate, the record

⁴⁶ Dymphna McLoughlin, 'Women and Sexuality in Nineteenth Century Ireland', *Irish Journal of Psychology*, Vol. 15, Nos.2-3, 1994, pp.266-275.

⁴⁷ McLoughlin, 'Women and Sexuality', pp.266-275.

⁴⁸ Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850*, Melbourne, 1984, p.80.

⁴⁹ Alford, *Production or Reproduction*, p.80.

stated 'delivered of a legitimate child', perhaps indicating that the status of the child was of concern to the government authorities, probably for financial reasons. When Susan Chickley gave birth to a daughter nine months after marrying, her conduct record was starkly marked 'delivered of a legitimate child at the Cascade Factory' and the child was registered as 'Chickley'.⁵⁰ It seems plausible that this was done because the child was born in the Female Factory.

Writing of early New South Wales, Robinson suggested that, while illegitimacy was not condoned by colonial authorities, it did not result in the same social stigma or loss of character leading to the inability to obtain secure employment as it did in contemporary Britain.⁵¹ It is not surprising, then, that some convict women had more than one illegitimate child.

One arsonist who had multiple pregnancies while under sentence was Eliza Guilfoyle, who appears to have been pregnant at least three times. In 1852, she gave birth to a daughter at the Cascades Female Factory.⁵² Her convict conduct record also twice mentioned punishments connected to the birth of children: in 1855, she was sentenced to eighteen months' hard labour for absconding and was ordered to serve

⁵⁰ AOT, RGD 37/11 1852 Brighton No.34: 'Chirkley'/Fairley (22 May 1852); AOT, CON 41/22 Susan Chickley *Australasia* 1849 No.1007. When she died at the age of 6, however, she was registered as Sarah Fairley: AOT, RGD 35/6 1861 Hobart No.2880: Sarah Fairley (23 July 1861). Two other children were born before Susan Chickley received her ticket-of-leave. Both were born in Richmond and were registered as Fairley, the name of their father: see AOT, RGD 33/33 1855 Richmond No.1375: Edward Fairley (15 May 1855); RGD 33/34 1856 Richmond No.1461: Charles Fairley (24 September 1856).

⁵¹ Robinson, *Hatch and Brood*, p.37.

⁵² AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, RGD 33/4 1852 Hobart No.1821: Theresa Gilfoyle (24 October 1852). There is no record of her admission to the Orphan School.

twelve months' probation 'from the date of the birth of her child'.⁵³ In 1857, while an assigned servant in Hobart, she was sentenced to nine months' hard labour for absconding and was ordered to serve twelve months' probation in the Female Factory from the date of her delivery.⁵⁴ Eliza was a frequent absconder from both her place of assignment and the House of Correction. It is possible that this was connected to her pregnancies. The birth of an illegitimate child often followed a period of absconding.

In an increasingly constrained environment, the deliberate arsonists continued to exert control over personal aspects of their lives. They were not necessarily victims of sexual exploitation and abuse. Children were an important part of their life experience.

Ellen Farrell had two illegitimate children while serving her sentence. The first, a daughter, was born in August 1851.⁵⁵ Like many illegitimate births to convict mothers, it does not appear to have been registered but was simply noted on the woman's conduct record. While there was a separate convict death register, there was nothing similar for births and many were recorded in general civil registration records.⁵⁶ Ellen Farrell's child did not survive, dying at eight months from diarrhoea

⁵³ AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518. No record of birth could be located.

⁵⁴ AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518 [26/2/57]. No record of birth could be located.

⁵⁵ AOT, CON 41/20 Ellen Farrell *Lord Auckland* (3) 1849 No.401.

⁵⁶ Civil registration was introduced to Tasmania in 1838: see Rebecca Kippen, 'An Indispensable Duty of Government: Civil Registration in Nineteenth-Century Tasmania', *Tasmanian Historical Studies*, Vol.8, No.1, 2002, pp.42-58.

at the Cascades Female Factory.⁵⁷ In October 1853, Ellen Farrell gave birth to a second child, William Farrell, in the House of Correction, Hobart.⁵⁸ Earlier, in June 1853 and July 1853, Ellen Farrell and William Watson had unsuccessfully applied for permission to marry. They applied twice again after the birth of William Farrell, in January 1854 and October 1854, before marrying in November 1854.⁵⁹ Based on available evidence, albeit circumstantial, it is possible that William Watson was the father of William Farrell. Ellen Farrell and William Watson went on to have four more children after they married.⁶⁰ Convict fathers of illegitimate children have largely been ignored and is impossible to name fathers for most of the illegitimate convict children.⁶¹

The creation of families, illegitimate or otherwise, was an important part of the convict life experience, and provided individuals with an opportunity to exercise

⁵⁷ AOT, RGD 35/3 1852 Hobart No.1417: Maria Farrell (10 May 1852). The Superintendent of the Cascades Female Factory registered the death. Between 12 April and 12 May 1852, 8 children died at the Factory, 6 from diarrhoea. When breastfeeding stopped, infants succumbed to marasmus or 'wasting disease', which involved acute diarrhoea; the infant, unable to retain nourishing food, usually starved to death. See Kippen, 'Death in Tasmania', pp.97-120, for a discussion of the causes of infant mortality in nineteenth century Tasmania, and esp. pp.108-113, for infant death in convict nurseries.

⁵⁸ AOT, CON 41/20 Ellen Farrell *Lord Auckland* (3) 1849 No.401.

⁵⁹ AOT, CON 52/6 (20 June 1853); AOT, CON 52/6 (29 July 1853); AOT, CON 52/7 p.523 (31 January 1854); AOT, CON 52/7 p.528 (25 October 1854); AOT, RGD 37/14 1854 Hobart No.483: Farrell/Watson (20 November 1854).

⁶⁰ AOT, RGD 33/6 1855 Hobart No.839: Maria Watson (10 December 1855); AOT, RGD 33/36 1858 Oatlands No.1651: female Watson (6 May 1858); AOT, RGD 33/36 1860 Oatlands No.1725: female Watson (7 January 1860); AOT, RGD 33/42 1864 Oatlands No.1365: Ellen Watson (18 November 1863).

⁶¹ For a discussion of convict fathers, see Phillips, 'Convicts, communications and authority'. Some baptism registers record the name of the fathers of illegitimate children: see, for example, AOT, NS 1052/13 Roman Catholic Baptisms Campbell Town and Ross. On the issue of putative fathers, generally, see the case of Mary MacLauchlan. Found guilty of infanticide, she was the first woman hung in Hobart, and was dissuaded from revealing the name of the father of the child, reputedly a Hobart gentleman: Richard Davis, *The Tasmanian Gallows: A Study of Capital Punishment*, Hobart, 1974. See also Helen MacDonald, *Human Remains: Episodes in Human Dissection*, Melbourne, 2005.

control over their lives. Some of the women were obviously pregnant when they married.⁶² Celia Kavanagh had a daughter to her convict labourer husband two months after they married. The pregnancy may have prompted the marriage; the couple applied to marry in September 1855 and married in October; their child was born in December. Two years earlier, Celia had given birth to a daughter at the Brickfields Establishment; the child died the same day.⁶³ Her daughter was born nine months after Celia had absconded from the Female Factory (where she was serving a sentence for absconding). Six weeks later, Celia was assigned in the north of the colony, perhaps as a measure of social control.⁶⁴ She continued to be in and out of prison until January 1855 when she was assigned in Bothwell, where she met her husband.⁶⁵ The couple had eight children, in Tasmania and Victoria. For deliberate arsonists like Celia Kavanagh, who had only one surviving relative when she was transported, it seems that families were important and were a way of taking back some control over their lives.

The circumstances that resulted in illegitimacy remain problematic. Kennedy implied that the possibilities of sexual exploitation were greater in communities characterised

⁶² This was also true for the next generation: AOT, RGD 32/4 1882 Launceston No.6810: Catherine May Hollington (8 August 1881), who was born on her parents' wedding day; AOT, RGD 37/36 1877 Fingal No.109: Walker/Furley (2 October 1877); AOT, RGD 33/55 1874 Fingal No.488: Sarah Blanche Furley (3 October 1877). Bernard Hoggett, *personal communication*, 19 April 2004: she was born the day after her parents' wedding.

⁶³ AOT, CON 52/7 p.183: Kavanagh/Hurley; AOT, RGD 37/14 1855 Bothwell No.15: Cavanagh/Hurley (1 October 1855); AOT, RGD 33/4 1853 Hobart No.2435: Susan 'Cavanagh' (17 June 1853); AOT, RGD 35/4 1853 Hobart No.184: Susan 'Cavanagh' (17 June 1853).

⁶⁴ AOT, CON 41/26 Celia Kavanagh *Earl Grey* 1850 No.383.

⁶⁵ AOT, CON 41/26 Celia Kavanagh *Earl Grey* 1850 No.383.

by social differentiation than those which were more egalitarian.⁶⁶ The position of an assigned servant demonstrates such a link between power and vulnerability: women, particularly those who were young, were more likely to find themselves the object of sexual attentions of employers, their sons, or other employees when they were away from 'the supervisory gaze of family and kinfolk'.⁶⁷ Sexual exploitation may have been applicable in the case of twenty-two-year-old nursemaid Elizabeth Coghlan, but it is difficult to be sure. Elizabeth was one of the few arsonists to be punished for fire-related offences in Van Diemen's Land. In April 1851, she was sentenced to six months' hard labour for unlawfully and maliciously trying to set fire to the house of her master, with intent to destroy the same. No mention was made of the fact that she was pregnant at the time. Before her sentence of hard labour was finished, Elizabeth Coghlan gave birth to a daughter at the Female House of Correction in Hobart, in June 1851.⁶⁸

⁶⁶ Kennedy, 'Bastardy', p.22.

⁶⁷ Kennedy, 'Bastardy', p.22. For the inequality of the master-servant relationship, and its implications, particularly in relation to domestic service, see B.W. Higman, *Domestic Service in Australia*, Melbourne, 2002, pp.24, 68; Mona Hean, 'Life for Domestic Servants in Dublin, 1880-1920' in Maria Luddy and Cliona Murphy (eds), *Women Surviving. Studies in Irish Women's History in the 19th & 20th centuries*, Dublin, 1990, pp.166-167.

⁶⁸ AOT, CON 41/22 Elizabeth Coghlan *Maria* (2) 1849 No.966; RGD 33/4 1851 Hobart No.521. Elizabeth Coghlan later married and had at least 3 more children before dying in 1863: AOT, RGD 37/13 1854 Hobart No.305: Coghlan/Hilsley; RGD 33/5 1854 Hobart No.5101: Ann Hilsley (also RGD 33/5 1854 Hobart No.995: female Ellesley); RGD 33/6 1856 Hobart No.5102: John Hilsley; RGD 33/36 1858 Kingston No.797 Male Hilsley; RGD 35/27 1858 Kingston No.284: male Hilsley; RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* Ellerslie.

Just over two-fifths of the deliberate arsonists who had an illegitimate child under sentence, and later married, had no more children. Studies into the effects of malnutrition and fertility, or childbirth difficulties, may offer a possible explanation.⁶⁹

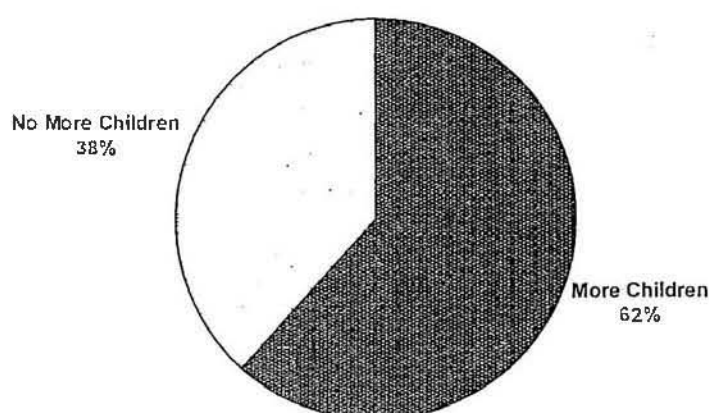


Figure 42: Deliberate arsonists who had illegitimate children under sentence followed by no more children [n=13].

Psychological factors may also have had an impact. In at least one instance where the mother had no more children, the illegitimate children were either stillborn or did not survive infancy. Ann Tuohy gave birth to a stillborn illegitimate child in 1848 at Ross. Nearly four years later, she gave birth to another illegitimate child 'at the

⁶⁹ Kennedy, 'Bastardy', p.21; Kennedy Clarkson, 'Birth, Death and Exile', pp.163-164. For Irish fertility patterns, see Timothy W. Guinnane, *The Vanishing Irish. Households, Migration, and the Rural Economy in Ireland, 1850-1914*, Princeton, 1997, esp. pp.81-85, 111: Guinnane comments on the consistently high rates of fertility throughout the 19th century.

Factory', probably in Launceston.⁷⁰ Ann Tuohy later married labourer George White in Launceston; no children are recorded to this couple.⁷¹ Tuohy's partner in crime and shipmate, Ann Mahoney, also had two children before marrying.⁷² In 1848, just days before Tuohy's stillborn child was born at Ross, Mahoney was 'delivered of a stillborn child' at the Cascades.⁷³ Her second child, Mary, was born in 1851, but died the following month in the Factory Hospital, Launceston.⁷⁴ Unlike Tuohy, however, Mahoney went on to have six more children, most of whom survived.⁷⁵ Both Tuohy and Mahoney were convicted in Limerick at the height of the Famine, at a time when the nutritional quality of diets had deteriorated significantly. Whether this had an impact on subsequent pregnancies remains conjecture.

In 1852, Jane Allen was 'delivered of an illegitimate stillborn child' at the Factory, Launceston, and died shortly after.⁷⁶ Among the deliberate arsonists, three of the illegitimate children were stillborn. This number is probably higher. Figures for stillbirth were not recorded, and, as Kippen noted, many causes of infant death remained a mystery.⁷⁷ Karskens wrote of the stigma and unease associated with bodies of stillborn babies, 'quickly and quietly buried, often under cover of darkness,

⁷⁰ AOT, CON 41/12 Ann Tuohy *Arabian* 1847 No.286.

⁷¹ AOT, RGD 37/14 1855 Launceston No.821A; RGD 37/15 1856 Launceston No.773: Tuohy/White. The registrations are duplicates.

⁷² AOT, CON 41/12 Ann Mahoney *Arabian* 1847 No.739; AOT, RGD 37/12 1853 (Longford) No.1242: Mahoney/Bishop.

⁷³ AOT, CON 41/12 Ann Mahoney *Arabian* 1847 No.739; RGD 33/3 1848 Hobart No.1128: male Mahoney.

⁷⁴ AOT, CON 41/12 Ann Mahoney *Arabian* 1847 No.739; RGD 35/17 1851 Launceston No.364: Mary Mahoney.

⁷⁵ Gwen Foster, *personal communication*, 22 November 2004.

⁷⁶ AOT, CON 41/30 Jane Allen *Blackfriar* 1851 No.272; RGD 35/17 1852 Launceston No.650: Jane Allan.

⁷⁷ Kippen, 'Death in Tasmania', p.97.

in odd places about the town'.⁷⁸ Perhaps this explains the actions of the husband of arsonist Margaret (McNamara) James: in December 1854, while a ticket-of-leave holder at Franklin, he was reprimanded for misconduct in concealing and burying the body of a dead infant.⁷⁹ Many of the stillborn children died in the female factories and were probably buried in the anonymous burial grounds attached to the institutions.

Pregnancy and childbirth provided an opportunity for convict women to return to the protection of the female factories and other institutions. In 1848, the Ross Female Factory opened and was used for lying-in cases.⁸⁰ Ann Tuohy, Margaret Butler, and Jane Hyland all had children there.⁸¹ Children were also housed at Brickfields: in 1849, mothers and children were moved there in an attempt to reduce the high mortality rate at the overcrowded Dynnryne nursery.⁸² In 1851, mothers and children were housed in a new wing at the Cascades Female Factory, but following an outbreak of disease, in which forty-seven children died, they were again moved, firstly to New Town and then to Brickfields, in 1852.⁸³ They were transferred to the

⁷⁸ Grace Karskens, 'Death was in his face: Dying, Burial and Remembrance in Early Sydney,' *Labour History*, No.74, 1998, p.28. See also Grace Karskens, *The Rocks: Life in Early Sydney*, Melbourne, 1997, esp. Ch.12.

⁷⁹ AOT, CON 33/83 and CON 17/1 p.76 John James *Agincourt* 1844 No.19278.

⁸⁰ Brown, 'Poverty is Not a Crime', pp.64-65; Damousi, *Depraved and Disorderly*, p.111, 121.

⁸¹ AOT, CON 41/12 Ann Tuohy *Arabian* 1847 No.286 (15 November 1848); AOT, CON 41/20 Jane Hyland *Lord Auckland* (3) 1849 No.749; AOT, RGD 33/26 1850 Campbell Town No.978: Harriet Hyland (4 October 1850); AOT, CON 41/26 Margaret Butler *Earl Grey* 1850 No.1048; AOT, RGD 33/30 1852 Campbell Town No.91: Michael Butler (13 April 1852).

⁸² AOT, GO 33/66 p.435. See also Brown, 'Poverty is Not a Crime', p.99: Brickfields also operated as a nursery and Immigrant Depot before becoming an Invalid Depot from 1859-1882. See also Kociumbas, *Australian Childhood*, p.43.

⁸³ AOT, GO 33/73 p.259. See also Brown, 'Poverty is Not a Crime', p.65.

Cascades Female Factory in 1854,⁸⁴ but returned to Brickfields in 1855, following an inquiry into the care of children at the Factory.⁸⁵

In the early years of the assignment system, children remained with their convict mothers. With the establishment of the Orphan School in 1828, children were systematically removed there, usually at the age of two or three.⁸⁶ Damousi interpreted the removal of the children of convicts as a denial of maternity, an intrinsic part of the 'paradox of convict mothers'.⁸⁷ The separation of mother and child was a punishment in itself. It is interesting to compare this point of view with the findings of Dympna McLoughlin regarding the abandoning of children in Irish workhouses.⁸⁸ McLoughlin argued that the desertion of children was not a callous act but essential to the survival of the women themselves, and was only for the length of time it took for women to gather enough means to provide for their children.⁸⁹ The essential difference lies in who was responsible for the removal of the children; in McLoughlin's example, the women demonstrated some control. In Van Diemen's Land, the women had no say in the removal of their children. In this area at least,

⁸⁴ AOT, GO 33/83 p.842.

⁸⁵ Brown, *Poverty is Not a Crime*, p.99.

⁸⁶ For the establishment of the Orphan School, and subsequent policy, see Brown, *Poverty is Not a Crime* and Kim Pearce, 'The Queen's Orphan Asylum – New Town' in Ian Terry and Kathryn Evans (eds), *Hobart's History: The First Two Hundred Years. Papers and Proceedings of the Conference Held by the Professional Historians Association of Tasmania, 4 October 1997*, Hobart, 1998, pp.19-34.

⁸⁷ Damousi, *Depraved and Disorderly*, pp.111, 121.

⁸⁸ Dympna McLoughlin, 'Superfluous and unwanted deadweight: the emigration of nineteenth century Irish pauper women' in Patrick O'Sullivan (ed.) *The Irish World Wide. History, Heritage, Identity. Vol.4: Irish Women and Irish Migration*, London, 1995, pp.72-74, for abandoned children reared in workhouses.

⁸⁹ Dympna McLoughlin, 'Workhouses and Irish Female Paupers 1840-70' in Luddy and Murphy p.132.

social control was effectively imposed and the women were frustrated in their goal of having power over their own lives.

The deliberate arsonists who had illegitimate children were a minority. Their reasons for doing so remain problematic.

Approximately half of the deliberate arsonists married, settling to an apparently stable family life and raising several children. There is nothing to suggest that this pattern was any different from that of the majority of the arsonists or even convict women generally. Details of the children born to the deliberate arsonists can be found in Appendix Six: Children of Deliberate Arsonists.

Among the deliberate arsonists, family size varied from one child to twelve children. Kociumbas asserted that there was a link between family size and poverty: 'The families of poor settlers in the eastern colonies were not large ... Only the larger landowners, merchants, members of the civil establishment and innkeepers had families of seven or more children'.⁹⁰ Among the deliberate arsonists, one of the largest families was that of Ellen Wiseman and her husband, Rheuben Cousins. Originally from Wexford, Ellen Wiseman was twenty-five when she married widowed labourer Rheuben Cousins in Launceston in January 1854.⁹¹ They had

⁹⁰ Kociumbas, *Australian Childhood*, p.48. She estimated that in New South Wales in 1820-1839 just over 60% of families had 4 or fewer live births; allowing for children who died in infancy, the average family had only 4 children.

⁹¹ AOT, RGD 37/13 1854 Launceston No.1001: Wiseman/Cousins (23 January 1854)..

twelve children, all but one surviving to adulthood.⁹² Their first child was born in Evandale in November 1854;⁹³ their youngest was born in 1875 in Westbury, when Ellen was in her mid-forties.⁹⁴ When Rheuben Cousins died in 1886, he owned several properties.⁹⁵ There seems to be a link between large, apparently stable families and land ownership or residence in settled farming communities.

Another large family was that belonging to Mary Madigan, who arrived in 1848 as a nineteen-year-old nurserymaid from County Clare.⁹⁶ Mary and her husband, William Hutchins, had at least nine, and possibly ten, children.⁹⁷

Several other women had families of six to eight children.⁹⁸ Some of their children also had families of more than eight children. Historians of early colonial settlement

⁹² AOT, RGD 33/38 1860 Westbury No.2227: James Cousins (26 February 1860). See also AOT, RGD 35/30 1861 Westbury No.870 (11 February 1861). He died of influenza.

⁹³ AOT, RGD 33/32 1854 Morven No.949: Elizabeth Cousins (16 November 1854).

⁹⁴ AOT, RGD 33/53 1875 Westbury No.1884: Matthew John Cousins (13 July 1875).

⁹⁵ AOT, RGD 35/55 1886 Westbury No.1254: Rheuben Cousins; AOT, AD 960/16 p.159 Will No. 3266 (1886): Reuben Cousins.

⁹⁶ AOT, CON 41/19 and CON 15/5 Mary Madigan *Kinnear* 1848 No.903.

⁹⁷ Three children were born in Launceston between 1852 and 1856: AOT, RGD 33/24 Launceston No.3522: William Hutchins (26 March 1852); AOT, RGD 33/32 1854 Launceston No.601: 'Latitia' Ferris Hutchins (14 March 1854); AOT, RGD 33/34 1856 Launceston No.647: Sarah Ferris Hutchins (6 April 1856). The name appears as 'Terris' on the *Tasmanian Pioneers Index*. Another five children were born at Port Sorell: AOT, RGD 33/36 1858 Port Sorell No.1733: Alfred Ferris Hutchins (24 February 1858); AOT, RGD 33/38 1860 Port Sorell No.1898: Henry Ferris Hutchins (22 March 1860); AOT, RGD 33/40 1862 Port Sorell No.1376: Theresa Ann Ferris Hutchins (20 June 1862); AOT, RGD 33/42 1864 Port Sorell No.1582: Mary Eliza Ferris Hutchins (24 August 1864); AOT, RGD 33/44 1866 Port Sorell No.1329: George Chas Ferris Hutchins (3 November 1866). In April 1872, eighteen-year-old Letitia Ferris Hutchins, the eldest daughter of William and Mary Ann Hutchins, died from typhoid: AOT, RGD 35/41 1872 Port Sorell No.400: Letitia Ferris Hutchins (15 April 1872). She was buried in the Don Congregational Cemetery: <http://tascoastalcemeteries.com/hutchins.htm>. Not long after this, the family moved to Victoria, where another daughter, also named Letitia, was born in 1874: Victorian Birth Certificate 1874 No.8206: Letitia Ferris Hutchins. The index records her father as William Henry F. and her mother as Mary Ann Herrolds Madigan. On Mary (Madigan) Hutchins' death certificate, another child, Emily Elizabeth, was also listed, but her birth record has not been located: Victorian Death Certificate 1900 No.5363: Mary Ann Hutchins.

and contemporary commentators frequently commented on the fecundity of colonial women.⁹⁹ No studies, however, have been done specifically on the fertility patterns of convict women. Carmichael pointed out that, although there is a shortage of data available with which to trace fertility levels and trends over the first sixty to seventy years of colonial settlement, fertility was high. By the 1850s, married women surviving their child-bearing years averaged seven live births, and half had nine or more children.¹⁰⁰ Many nineteenth-century women spent the majority of their adult lives pregnant, giving birth/and or caring for young children; this was also the pattern for many of the deliberate arsonists.

Survival rates

Survival rates for the children of the deliberate arsonists varied.¹⁰¹ For illegitimate children, particularly those housed in convict nurseries, where conditions were often atrocious, survival rates were poor.¹⁰² In 1855, during a Legislative Council inquiry into the Convict Department, Dr E.S. Hall convinced the Legislative Council

⁹⁸ See Appendix Six: Children.

⁹⁹ See, for example, Alan Frost, *Botany Bay Mirages. Illusions of Australia's convict beginnings*, Melbourne, 1994, pp.211-223.

¹⁰⁰ Gordon A. Carmichael, 'So Many Children. Colonial and Post-Colonial Demographic Patterns' in Kay Saunders and Raymond Evans (eds) *Gender Relations in Australia. Domination and Negotiation*, Sydney, 1996, p.125. See also Margaret Anderson, 'The Reproductive Experience of Women Married in Western Australia, 1842-1849', *Australia 1988*, Bulletin No.13, November 1984: Anderson concluded that women tended to bear children at intervals of between 2 years and 30 months. See also Morgan, 'This Land of Plenty', pp.102-103, which detected a similar trend in the interval between births. For the size of Irish immigrant families, see Morgan, 'This Land of Plenty' p.102, and Chris McConville, 'The Victorian Irish: emigrants and families, 1851-91' in Patricia Grimshaw, Chris McConville and Ellen McEwen (eds), *Families in Colonial Australia*, Sydney, 1985, p.5. For Irish-American fertility patterns, see Diner, *Erin's Daughters*, pp.63-64.

¹⁰¹ Kociumbas, *Australian Childhood*, pp.41-42: in the 1860s, the NSW peak birth-rate was 40 per 1000 in the 1860s. Infant mortality rates in early NSW were at about 20% of live births cf. London at roughly the same time at 40%. This changed from the 1830s when there were 'sufficient children' on immigrant ships for measles, whooping cough, scarlet fever and diphtheria to be transferred from child to child and thus survive the long voyage.

¹⁰² See Kippen, 'Death in Tasmania', pp.97-120, for a discussion of the causes of infant mortality in 19th century Tasmania, and esp. pp.108-113, for infant death in convict nurseries.

committee that the Convict Department was 'chiefly responsible for a reckless negligence' in the convict nurseries, which had resulted in the 'sickly state of the children' and 'excessive mortality'. The Convict Department, according to the committee, had been responsible for 'general mismanagement, exposure to cold, insufficient food and clothing, badly arranged dormitories ... and an insufficient allowance of nourishment to mothers who were nursing'.¹⁰³ Over two-thirds of the children illegitimately born to the deliberate arsonists – 69 per cent – died in infancy or as young children.¹⁰⁴ Only five appear to have survived to adulthood.¹⁰⁵ This appears to be consistent with general trends for colonial children in care.

As in the general community, survival rates for legitimate children were significantly better. Nevertheless, they varied. None of the six children born to Alice Tobin and her husband, William Moy, survived; the first four children all died of convulsions.¹⁰⁶

The only child to survive infancy, described as 'a cripple' in 1869, died at the age of

¹⁰³ Tasmanian Legislative Council Paper No.33: *Draft of a proposed report from the Select Committee on the Convict Department*.

¹⁰⁴ See Appendix Eight: Delivered of an illegitimate child.

¹⁰⁵ AOT, RGD 33/26 1850 Campbell Town No.978: Harriet Hyland (4 October 1850); AOT, RGD 33/30 1852 Campbell Town No.91: Michael Butler (13 April 1852); AOT, RGD 33/4 1852 Hobart No.1821: Theresa Gilfoyle (24 October 1852); AOT, RGD 33/5 1853 Hobart No.230: William Farrell (26 October 1853); AOT, CON 41/35 and CON 15/7 Mary Hennessy *Martin Luther* No.950 (24 June 1857).

¹⁰⁶ AOT, CON 41/35 Alice Tobin *Martin Luther* No.379; AOT, CON 33/104 William Moy *Blenheim* (4) 1851 No.24816. In 1855, Alice Tobin married Irish convict blacksmith William Moy: see AOT, RGD 37/14 1855 Hobart No.236: Tobin/Moy. Five children were born between 1855 and 1860, while the couple were living at New Town Road; the youngest was born in Oatlands. The eldest child, a son, was born in Hobart 4 months after the couple married, but lived only 2 weeks and 1 day: see AOT, RGD 33/5 1855 Hobart No.127: male Moy (16 June 1855); RGD 35/5 1855 Hobart No.28: male Moy (1 July 1855); RGD 33/6 1856 Hobart No.1185: William Moy (25 April 1856); RGD 35/5 1856 Hobart No.753: William Moy RGD 33/6 1857 Hobart No.166: George Arthur Moy (9 January 1857); RGD 35/6 1857 Hobart No.119: George Arthur Moy (20 February 1857); RGD 33/7 1859 Hobart No.2473: Joseph William Moy (5 May 1859); RGD 35/6 1859 Hobart No.1570: Joseph William Moy (15 June 1859).

twelve of scarlet fever.¹⁰⁷ No records survive to indicate how Alice Tobin dealt with the death of her children. At the other end of the scale, eleven of Ellen (Wiseman) Cousins' twelve children survived infancy.¹⁰⁸ The exception was her son, James, nearly twelve months old, who died of influenza in 1861.¹⁰⁹

The care of children formed an important part of the life experience of the majority of the deliberate arsonists. An examination of this aspect of their lives sheds light on the fourth question of this thesis, relating to the post-sentence life experience of the deliberate arsonists. A significant difference between the lives of the women in colonial Tasmania and contemporary Ireland lay in the removal and institutionalisation of young children.¹¹⁰

¹⁰⁷ AOT, RGD 33/7 1860 Hobart No.3771: James Thomas Moy (27 September 1860); AOT, RGD 35/7 1874 Oatlands No.520: James Thomas Moy. A sixth child, Jane, was born in 1864: AOT, RGD 33/7 1864 Oatlands No.1381: Jane Ann Moy (19 March 1864). No marriage or death has been found for her, but she apparently died by September 1869, as she was not mentioned in an application for public aid necessitated by the admission of William Moy to the New Norfolk Insane Asylum: Legislative Council Paper No.47/1871 p.38: *Return of Persons who were in receipt of public funds on 1 December 1870*. See also I. Schaffer & Joyce Purtscher *The Sick and the Poor in Tasmania 1870 Persons in Receipt of Public Aid*, Hobart, 1994, p.43; AOT, HSD 247/1 Folio 606: William Moy. See also RGD 35/38 1869 New Norfolk No.359: William Moy. Moy died of 'chronic meningitis' in 1869, five months after being admitted to the Asylum.

¹⁰⁸ AOT, RGD 33/32 1854 Morven No.949: Elizabeth Cousins (16 November 1854); AOT, RGD 33/34 1856 Westbury No.1617: Sarah Cousins (3 March 1856); AOT, NS 1052/14 Roman Catholic Baptism Westbury (5 March 1858); AOT, RGD 33/36 1858 Westbury No.2056: Reuben Cousins (23 February 1858); AOT, RGD 33/38 1860 Westbury No.2227: James Cousins (26 February 1860); AOT, RGD 33/39 1861 Westbury No.2281: Mary Ann Cousins (27 November 1861); AOT, RGD 33/42 1864 Westbury No.1827: William Cousins (16 March 1864); AOT, RGD 33/44 1866 Westbury No.1634: Maria (Emma) Cousins (13 October 1866); AOT, RGD 33/47 1869 Westbury No.1576: Susan Cousins (8 March 1869); AOT, RGD 33/50 1872 Westbury No.1862: Agnes Cousins (19 October 1872); AOT, RGD 33/53 1875 Westbury No.1884: Matthew John Cousins (13 July 1875).

¹⁰⁹ AOT, RGD 35/30 1861 Westbury No.870: James Cousins (11 February 1861).

¹¹⁰ See, however, McLoughlin, 'Superfluous and unwanted deadweight', pp.72-74, for abandoned children reared in workhouses.

Children over two or three years of age who arrived with a convict parent were usually admitted to the Orphan School on arrival, and remained there until reunited with their parent, or apprenticed out.¹¹¹ Colonial-born children of convicts were also admitted to the Orphan School, often when their parent or parents had died or deserted, or were in difficulty through sickness, or were serving a term of imprisonment. This group, too, remained at the school until reunited with their parent, or until they were apprenticed out. Many children, too, were admitted after their parents had served their sentence. The admission application records detail the circumstances leading to the application: poverty exacerbated by the economic depression in Tasmania from the 1850s was a significant factor.¹¹²

It is difficult to disagree with Damousi's statement that the removal of children is 'a potent symbol of disempowerment and dispossession'.¹¹³ No evidence survives to show what the deliberate arsonists thought of the placement of their children in the Orphan School. The Orphan School, however, acted as a form of control and discipline for convict mothers. It provided training for destitute children, usually as labourers or domestic servants, but they were closely supervised and constrained and were deprived of their parents, sometimes permanently.¹¹⁴

¹¹¹ Ian Brand, *The Convict Probation System: Van Diemen's Land 1839-1854*, Hobart, 1990, p.105. Brand argued that it is unlikely that many were reunited with their parents. cf. Susan E. Johnson, 'The Irish convict women of the *Phoebe*', *THRAPP*, Vol. 45, No.1, March 1998 p.41. Johnson concluded that, of the 24 who arrived on the *Phoebe*, 11 were apprenticed out; 10 were returned to their mothers; 1 died; and 2 were unaccounted for in the records.

¹¹² W.A. Townsley, 'Tasmania and the great economic depression, 1858-1872', *THRAPP*, Vol.4, No.2, July 1955, pp.35-46.

¹¹³ Damousi, *Depraved and Disorderly*, p.121.

¹¹⁴ Damousi, *Depraved and Disorderly*, p.130.

'a most respectable woman'¹¹⁵

Except for the children who accompanied transported parents, admission to the Orphan School was not automatic and the moral behaviour of all parties was carefully scrutinized. Following the death of deliberate arsonist Elizabeth (Coghlan) Hilsley in 1864, application was made for the admission to the Orphan School of her three children.¹¹⁶ The application, in February 1865, was made on the basis that their mother – 'a most respectable woman'¹¹⁷ – was dead and their unemployed father was not able to care for them.¹¹⁸ The catalyst for the application was a letter from a Mrs Johns to Assistant Colonial Secretary B. Travers Solly:

Dear Mr. Solly,

You may remember our being very much interested in a most respectable woman, Mrs Hilsley, who died in the Hospital some months ago, after a long illness & great suffering. We used frequently to go & see her. Her husband who is a sober respectable man, has long been out of work, & is now unable from illness to leave his bed; so that his four young children are destitute of the necessaries of life. I believe the youngest is provided for – but the three others he is anxiously wishing to have placed in the Orphan Asylum as soon as possible.¹¹⁹

She added that Hilsley was living at the Waterworks where he had been employed. Mrs Johns painted a different picture of John Hilsey to that which subsequently emerged; perhaps she was aware of the moral constraints imposed by the administrators of the Orphan School. In response to Mrs John's letter, Solly ordered a police report, standard procedure following an application. Sergeant Catley

¹¹⁵ AOT, SWD 26/8 1865-1866: Hilsley.

¹¹⁶ AOT, SWD 26/8 1865-1866: Hilsley. The children were Ann Hilsley (10 years 10 months); John Hilsley (8 years 10 months); and William Hilsley (5 years). For Elizabeth's death, see AOT, CON 41/22 Elizabeth Coghlan *Maria* 1849 No.966; AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* Ellerslie. See also Joyce Purtscher, *Deaths at the General Hospital Hobart January 1864-June 1884*, Mt Stuart, 1999: AOT, HSD 145.

¹¹⁷ AOT, SWD 26/8 1865-1866: Hilsley.

¹¹⁸ AOT, SWD 26/8 1865-1866: Hilsley.

¹¹⁹ AOT, SWD 26/8 1865-1866: Hilsley. The youngest child did not belong to Elizabeth.

concluded: 'I have no doubt Mrs Johns has been most seriously misled'.¹²⁰ The police report noted that John Hilsley was 'an able-bodied man' about forty, who had been out of work for about two weeks through illness. Hilsley stated that he was so ill that 'he expects to be obliged to go into the hospital'.¹²¹ But Hilsley's health was incidental to the application. His moral behaviour was considered more important: according to Catley, Hilsley had been for some time cohabiting with a prostitute known as 'New Zealand Jenny', with whom he had a child.¹²²

The children were also questioned: 'the eldest girl is a very inter[esting] child and has stated in the absence of her father that it is her father's intention of marrying and proceeding to an adj[acent] Colony'.¹²³ The children were said to be in a very bad state – 'nearly naked' – while 'every comfort seems to have been bestowed upon himself and paramour'.¹²⁴ Mrs Johns' application to have the children admitted was not successful, because of Hilsley's character and circumstances. Attention focused on Hilsley's moral behaviour rather than his poor health: because he was living with a woman said to be a prostitute, his actual circumstances were ignored. The welfare of the children was barely considered.

¹²⁰ AOT, SWD 26/8 1865-1866: Hilsley.

¹²¹ AOT, SWD 26/8 1865-1866: Hilsley.

¹²² AOT, SWD 26/8 1865-1866: Hilsley.

¹²³ AOT, SWD 26/8 1865-1866: Hilsley.

¹²⁴ AOT, SWD 26/8 1865-1866: Hilsley.

Nearly a month after Mrs Johns' application, Hilsley was admitted to hospital, 'leaving the children totally unprovided for'.¹²⁵ The children were temporarily placed in private care. When Hilsley heard that the children were to be returned to him, he unsuccessfully tried to leave the hospital, to avoid taking them. Within days, he abandoned them. Hilsley was arrested and ordered to pay for their support, but he defaulted and was imprisoned for twelve months with hard labour. He left the children in 'a fearful dirty condition' and they were admitted to hospital 'for a few days as they are suffering from the itch'. They could not be transferred to the Queen's Asylum, or Orphan School, until cured. A month later, the hospital's Resident Medical Officer, George Turnley, successfully applied to have them admitted to the Orphan School, as there was no appropriate accommodation for them at the hospital: 'they are living in the cells'.¹²⁶ In March 1866, the two boys were discharged to their father, by then 'in a position and willing to keep them'; there was no mention of his daughter Ann.¹²⁷ The following year, their father remarried; his bride was seventeen.¹²⁸

The Hilsley case highlights several important issues relating to the care of convict children. Perhaps most significantly, in determining responsibility for the care of the

¹²⁵ AOT, SWD 26/8 1865-1866: Hilsley, 24 March 1865; 24 March 1865; 25 March 1865.

¹²⁶ AOT, SWD 26/8 1865-1866: Hilsley, Turnley to Solly, Assistant Colonial Secretary, 12 April 1865; T. Turnley to Solly 13 April 1865. *Emphasis in original*. Turnley to Solly 13 April 1865, File Note 18 April 1865 A. Jones to B. T. Solly, Assistant Colonial Secretary, 26 February 1866.

¹²⁷ AOT, SWD 26/8 1865-1866: Hilsley, A. Jones to B. T. Solly, Assistant Colonial Secretary, 26 February 1866, File Note Coverdale 2 March 1866; File Note Jones 6 March 1866.

¹²⁸ AOT, RGD 37/26 1867 Hobart No.182: West/Hilsley (7 January 1867); AOT, RGD 32/4 1871 Longford No.6306: Jane Hilsley (no date); AOT, RGD 33/49 1871 Longford No.927: Esther Hilsley (20 June 1871).

children of convicts, the welfare of the children was of secondary consideration to the moral behaviour of the parents.¹²⁹ Families tainted by excessive drinking, or behaviour perceived as immoral, found it extremely difficult to receive government or charitable assistance. As well, Hilsley's difficulty in caring for his three children after the death of his wife when he was ill; his willingness to abandon them so that they could be admitted to the Orphan School; and his attempt to have them released from the Orphan School when his circumstances improved, all indicate the complexity of the role of convict parents.

'a very deserving steady woman'¹³⁰

That the moral behaviour of convict parents was a primary concern of the colonial authorities is also demonstrated by the case of Bridget Dooling, who had contact with the Orphan School over a number of years. On arrival in the colony, nineteen-year-old Bridget Dooling admitted to being 'on the town' for six years.¹³¹ Nearly eighteen months after her arrival, she gave birth to a daughter, Agnes 'Doolan', in the Female House of Correction.¹³² Between 1853 and 1863, while still under sentence, Bridget Dooling had four more children.¹³³ In March 1864, she received her certificate of freedom, the formal acknowledgement that she had completed her sentence.¹³⁴

¹²⁹ AOT, SWD 26/1-9, *passim*.

¹³⁰ AOT, SWD 26/7 1864: Murphy.

¹³¹ AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682.

¹³² AOT, RGD 33/4 1851 Hobart No.358: Agnes 'Doolan'. Agnes' baptism was recorded in St. Joseph's Catholic Church register: AOT, NS 19052/8 p.136 (Agnes Doolin). She died from diarrhoea at Cascades Female Factory aged 11 months: AOT, RGD 35/3 Hobart No.1356: Agnes Doolan (11 March 1852).

¹³³ AOT, RGD 33/39 1861 Horton No.1264: Rachael 'Dolley' (10 May 1861). This is the only birth that appears to have been registered. Details for the other three children – John (b. c1853), Charles (b. c1859), and James (b. c1863) have been extracted from Orphan School records: AOT, SWD 26/8.

¹³⁴ AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682.

Within days, she married Michael Dawley alias James Murphy, the father of her children.¹³⁵ Dawley was hospitalised three days later.¹³⁶ The family, at the time, was reportedly 'in comfortable circumstances'. With her husband in hospital, Bridget was forced, initially, to seek charitable assistance from the Benevolent Society,¹³⁷ and later, government assistance in the form of admission of the two oldest children to the Orphan School.¹³⁸ Father Hall intervened, applying for admission for the three oldest children.¹³⁹ The children's father strongly opposed the application and Bridget pleaded for extra rental assistance instead, which would enable her to keep the two youngest children with her. She was granted five shillings weekly, to be paid through the agency of the Inspector of Police, until her husband was discharged from hospital.¹⁴⁰ This assistance was contingent upon police investigation of Bridget's moral fitness.¹⁴¹ Sergeant Catley attached to his report a character certificate from the Benevolent Society, as well as a supporting note from Benevolent Society Registrar, William Witt, which stated that Bridget Doolan was 'a deserving and well

¹³⁵ AOT, RGD 37/23 1864 Hobart No.252: Doolan/Daley. Highway robber and former soldier, Michael Dawley (alias James Murphy), arrived in Van Diemen's Land on the *Tory* on 18 March 1847. See AOT, CON 33/85; CON 14/34; CON 18/47 Michael Dawley *Tory* 1847 No.19651.

¹³⁶ AOT, SWD 26/7; Joyce Purtscher (comp.), *Deaths at General Hospital* Hobart, Mt Stuart, 1999: Michael Dawley *Tory* 1847.

¹³⁷ AOT, SWD 26/7 28 April 1864: Murphy. The aid included 10 loaves weekly, 3 oz tea, 1lb sugar and 2lbs of oatmeal and soap.

¹³⁸ AOT, SWD 26/7: Murphy. The children were John Murphy, aged 9, and Charles Murphy, nearly 5.

¹³⁹ AOT, SWD 26/8: Murphy, Letter from Rev. Hall to Colonial Secretary 25 April 1864. On 28 April 1864, Rev. Hall wrote to the Colonial Secretary requesting that the three Murphy children – John Murphy, aged 9, Charles Murphy, nearly 5, and Rachael Murphy, nearly 3 – be admitted to the Orphan School.

¹⁴⁰ AOT, SWD 26/8 28 April 1864: Murphy, Memorandum Colonial Treasurer 1 May 1864; File Note B. Travers Solly 3 May 1864. Two-thirds was to be paid by the Imperial Government.

¹⁴¹ For the relationship between the police and welfare, see Stephen Garton, *Out of Luck: Poor Australians and Social Welfare 1788-1988*, Sydney, 1990.

conducted person' and that she was only in distress because of her husband's illness.¹⁴²

Dawley died on 29 July 1864, and there was fresh consideration of Bridget's circumstances, which had deteriorated.¹⁴³ Catley again responded positively: 'She is a very deserving steady woman'.¹⁴⁴ Admission of the two oldest children to the Orphan School was approved. However, the weekly five shillings allowance ceased, leaving Bridget to support three-year-old Rachel and sixteen-months-old James.¹⁴⁵ Before a month had passed, Bridget was asking for her two sons in the Orphan School to be returned to her. She argued that with an allowance of seven shillings per week, and Benevolent Society aid, she could maintain them 'under her own care, should there be no objection on the part of the Government'.¹⁴⁶ She stated that she suffered poor health, and with the older two children admitted to the Orphan School, she found it difficult to manage the younger ones. The admission was cancelled, the children were returned and she was granted a weekly allowance of 7/6 for six months, again payable through the agency of the Inspector of Police.¹⁴⁷ Bridget's case not only highlights the determination of some mothers to keep their children in the face of desperate economic plight, but also creativity in suggesting solutions to enable her

¹⁴² AOT, SWD 26/7 1864: Murphy.

¹⁴³ AOT, RGD 35/7 1864 Hobart No.4593: Michael or James Dawley or Murphy (29 July 1864). See also Purtscher, *Deaths at the General Hospital Hobart*: AOT, HSD 145; AOT, SWD 26/8 1864: Murphy, File Note B. Travers Solly no date.

¹⁴⁴ AOT, SWD 26/7 4 August 1864: Murphy.

¹⁴⁵ AOT, SWD 26/8 1864-1865: Murphy, File Note James Milne Wilson 6 August 1864.

¹⁴⁶ AOT, SWD 26/8 1864-1865: Murphy, Letter from Catley to B.T. Solly 23 August 1864.

¹⁴⁷ AOT, SWD 26/8 1864-1865: Murphy, File Note 23 August 1864; Memorandum: B.T. Solly 26 August 1864.

children to be returned to her care. Child labour, paid and unpaid, was critical to the survival of families.¹⁴⁸

Not surprisingly, given her economic vulnerability, Bridget (Dooling) Murphy remarried six months after her husband's death. She was thirty-one; her new husband, John Sullivan (alias Kargeeg), was a thirty-seven-year-old widowed labourer or shoemaker, with four children.¹⁴⁹ Her remarriage did nothing to alleviate Bridget's economic precariousness; if anything, it intensified. Sullivan not only brought four young children to the partnership but also a reputation for drunken profligacy and idleness. Shortly after the marriage, an application was made for the admission to the Orphan School of eight children in Bridget's care. Sullivan had deserted his new wife, leaving her with eight children under the age of ten; he was 'located in a house of ill-fame near the Red Lion in Liverpool Street'.¹⁵⁰ He was imprisoned for failing to pay for the maintenance of his family.¹⁵¹

Bridget struggled to support the eight children in her care, claiming that she was not able to provide for more than two. In February 1865, it was reported by Father Hall and J.H. Smales, who sought admission of the children to the Orphan School, that:

¹⁴⁸ On this point, see Kociumbas, *Australian Childhood*, p.46; Marilyn Lake, 'Helpmeet, slave, housewife: women in rural families 1870-1930' in Patricia Grimshaw, Chris McConville and Ellen McEwen (eds), *Families in Colonial Australia*, pp. 173-185.

¹⁴⁹ AOT, RGD 37/24 1865 Hobart No.259: Murphy or Daily/Sullivan (7 January 1865). As John Kargeeg, John Sullivan arrived on the *HMS Anson* on 4 February 1844. A shoemaker, he was tried in Cornwall on 11 April 1842 and was sentenced to transportation for 7 years for larceny. He had previous convictions for leaving his master and for assault. See AOT, CON 33/49; CON14/25; CON 18/41; CON 27/10. John Kargeeg *HMS Anson* 1844 No.11592.

¹⁵⁰ AOT, SWD 26/7 1864: Murphy.

¹⁵¹ AOT, SWD 26/8 1864-1865: Murphy.

The children are nearly naked, and entirely without food, except what they receive from neighbours. They are now in an empty house in Molle St a little above Goulburn Street.¹⁵²

Attempting to have the allowance previously granted to her continued, Bridget was severely criticized by Smales:

Bridget Sullivan has acted most indiscretely in this matter – although the man is a good tradesman and could (were it not for his drunken propensities) largely assist in the maintenance of his wife, his and her children. It appears presumptive that she calculated that the allowance would be continued after her marriage with Sullivan – as his incapacity to wholly maintain so large a number of children must have been obvious.¹⁵³

Gaining admission to the Orphan School was not automatic and was a complicated process of referral and report. In Bridget's case, a number of reports were made, about her circumstances and her morals, before she could receive assistance. Hall and Smales argued that the best solution was to place the four Sullivan children and the two middle Murphy children in the Orphan School, 'thus compelling her to support the youngest and place the elder in service'.¹⁵⁴ They also added that they thought the six children should be discharged to Sullivan upon his release from prison.

The claim that Bridget was 'a steady industrious woman' was challenged: notes on the file hinted that she could not be trusted with money for the children,¹⁵⁵ and it was asserted that she was not properly looking after Sullivan's 'four poor young and

¹⁵² AOT, SWD 26/8 1864-1865: Murphy.

¹⁵³ AOT, SWD 26/8 1864-1865: Murphy, Smales to Solly 10 February 1865.

¹⁵⁴ AOT, SWD 26/8 1864-1865: Murphy, Letter 17 February 1865 Smales and Hall (Vicar-General). On 30 March 1865, Charles, aged 6, and Rachael Murphy, 4, were admitted to the Orphan School, along with the 4 Sullivan children: Elizabeth, 10; Catherine, 9; John, 7, and Frederick, 5.

¹⁵⁵ AOT, SWD 26/7 1864: Murphy: 'We do not think that the woman should again be entrusted with money for the benefit of the children' (20 February 1865).

houseless children ... [she] will not in the least degree see to them, even to superintending their scanty [allowance] being served out'.¹⁵⁶ Worse still, it seemed, was her alleged imprudence in getting married to 'a notorious vagabond':¹⁵⁷

the wantonness of this woman that when she might have lived in peace with 8/s a week from Government and a full ration from the Benevolent Society, she should throw herself away upon a man who had four children and his wife only five weeks dead, herself a widow of about the same period also with four children.¹⁵⁸

These comments were made despite evidence that Sullivan 'shove [?] his wife out of bed and otherwise ill-used her'.¹⁵⁹ Bridget was forced to take refuge at midnight in a neighbour's house, and the following day went to the house and removed the goods which belonged to her before marriage.¹⁶⁰ In a note to Assistant Colonial Secretary Solly, magistrate A.B. Jones suggested that 'it seems true the marriage was a Dodge [?] of the Benevolent Society to get rid of the woman and her family'.¹⁶¹

It is not clear what became of the children after they were admitted to the Orphan School or when they were discharged. However, as already noted, Bridget (Doolan) and John Sullivan appear to have reconciled; they had at least three children of their own between 1866 and 1870.¹⁶² Above all, the story of Bridget Dooling and her family demonstrates not only the struggle for families to survive in difficult economic circumstances but also the impact of prejudicial police and benevolent reports

¹⁵⁶ AOT, SWD 26/7 1864: Murphy.

¹⁵⁷ AOT, SWD 26/7 1864: Murphy, Catley 18 February 1865.

¹⁵⁸ AOT, SWD 26/8: Murphy.

¹⁵⁹ AOT, SWD 26/8 28 April 1864 & 16 March 1865: Murphy & Sullivan.

¹⁶⁰ AOT, SWD 26/8 28 April 1864 & 16 March 1865: Murphy & Sullivan.

¹⁶¹ AOT, SWD 26/8 28 April 1864 & 16 March 1865: Murphy & Sullivan.

¹⁶² AOT, RGD 33/9 1866 Hobart No.8599: Mary Ann Sullivan; AOT, RGD 33/9 1868 Hobart No.9802: Daniel Sullivan; AOT, RGD 33/10 1870 Hobart No.1462: Sarah Jane Sullivan.

concerning moral behaviour and inappropriate parenting. It also highlights the paucity and precariousness of contemporary welfare funding.

Responsibility for the care of the children of convicts was complicated when one or both of the parents were imprisoned, as in the case of Catherine (Mannon) and George Leathley. In 1866, George Leathley was imprisoned for manslaughter and his wife, Catherine, was also sent to prison for two months, because she could not pay a £2 fine. The couple had four children, who were left with no-one to care for them.¹⁶³ In January 1866, application was made by A.B. Jones, Hobart Police Magistrate, for the admission to the Queen's Asylum for Destitute Children of two of the Leathley children on the grounds of their parents' imprisonment. On the night after their father was sentenced to be hanged for murder, the two boys were picked up by the police, 'wandering about the streets houseless' and were 'lodged for protection and sustenance in the Watch House' where they were kept until admitted to the Queen's Asylum.¹⁶⁴ A family member was Leathley's first choice for the care of his children, an indication of the strength and value of family links within the convict community. On 3 February 1866, he suggested that his brother, David Leathley, might take one or both of the boys: 'if my brother David is willing to undertake the care of the above named children ... either of them I wish that he should do so'.¹⁶⁵ This did not

¹⁶³ *The Mercury* 24 January 1866.

¹⁶⁴ AOT, SWD 26/926 January 1866: Leathley. For homeless wandering children, see Damousi, *Depraved and Disorderly*, pp.163-164.

¹⁶⁵ AOT, SWD 26/9 1866: Leathley. It is not known what happened about the uncle of the children. David Leathley was transported on the *John Calvin* in 1846: see AOT, CON 33/88 and CON 17/3 p.58. He was recommended for a conditional pardon in 1856 and married in Scottsdale in 1876: *HTG* 29 January 1856 p.60; AOT, see RGD 37/35 1876 Ringarooma No.711: Verity/Leathley (17 May

eventuate and they were admitted into the institution in January 1866. Twelve-year-old Anastasia and ten-year-old Sarah were with their mother at the Cascades Female Factory.¹⁶⁶ Jones was highly critical of both parents, pessimistically stating in the application that:

It is within my own knowledge that the mother as well as the Father has been a most dissolute character, and I feel confident that when returned from confinement she will continue to pursue the same career of vice for which she has hitherto been noted leaving her children to wander about totally unprovided for either in food clothing or education so that in the end they cannot fail but become pests to society and a burthen on the Revenue.¹⁶⁷

Catherine (Mannon) Leathley had no colonial offences recorded on her convict conduct record, but at least from 1861, she appeared regularly in the lower courts charged with drink-related and similar offences.¹⁶⁸ Jones recommended that her children be sent to the Asylum at New Town – despite the risk this involved to the reputation of the institution.¹⁶⁹ Jones' view reflected a contemporary fear of colonial authorities that destitute colonial children would 'revert to the dishonest practices which had brought their mothers to the colonies in the first place'.¹⁷⁰ Belief in the convict taint combined with a desire for reformation underlay government policy on the removal of children from convict mothers.¹⁷¹

1876). He died at Myrtle Bank in 1894: AOT, RGD 35/63 1894 Launceston No.371: David Leathley (28 December 1894).

¹⁶⁶ AOT, SWD 26/9 26 January 1866: Leathley. Anastasia appears as 'Ann' on the application.

¹⁶⁷ AOT, SWD 26/9 26 January 1866: Leathley.

¹⁶⁸ AOT, CON 41/46 Catherine Mannon *Earl Grey* 1850 No.1092. See also, for example, AOT, LC 247/27 (13 March 1861) using obscene language.

¹⁶⁹ AOT, SWD 26/9 26 January 1866: Leathley.

¹⁷⁰ Kociumbas, *Australian Childhood*, pp.42-43.

¹⁷¹ Damousi, *Depraved and Disorderly*, pp.46, 119-122; Kociumbas, *Australian Childhood*, p.45.

From the Asylum, the Leathley children could be apprenticed as soon as they were of 'a suitable age'; Jones thought two were ready to be apprenticed. He feared, however, that

the blame of their total want of Education and religious teaching will be thrown by ignorant or interested parties in the system of training in force in that Institution and the Officers who have to carry it out.¹⁷²

Part of the problem, according to Jones, was that there was no suitable place to send the Leathley children: there was no industrial school for males, and the girls were not 'houseless or destitute or wandering'. Under the legislation, vagrant children could only be sent to an industrial school when there were no parents or guardians to enter into a recognizance, for the good behaviour of their ward or child. The mother of such children, however, could 'surrender them for that purpose' where through a conviction of felony, the father was unable to provide for them.¹⁷³ Jones' letter concluded that, whatever the decision, it needed to be made quickly as there was no provision for the children at the watch house.

There is some confusion about whether Catherine was imprisoned again. Attached to the Leathley application was another letter written by Jones, concerning twelve-year-old Anastasia Leathley. Her father was still imprisoned, and her mother was in the Female House of Correction for three months in default of payment of a fine for a misdemeanor.¹⁷⁴ According to Jones' file note, Anastasia Leathley had been left by her mother at the house of Mr Berry, a licensed victualler. Mr Berry had 'beaten her

¹⁷² AOT, SWD 26/9 26 January 1866: Leathley.

¹⁷³ AOT, SWD 26/9 26 January 1866: Leathley. See also *27 Victoria No.24*.

¹⁷⁴ AOT, SWD 26/9 26 January 1866: Leathley.

most cruelly' and she had been removed from the house. Mr Berry was heavily fined, and the child was sent to the General Hospital to recover: 'the Hospital Authorities are anxious to have her discharged but as the child would have to be turned out into the streets, hesitate to do so until some arrangement can be made for her reception into another Institution'.¹⁷⁵ Mr Jones continued, stating that, ordinarily, he would have sent the child to the Female House of Correction and maintained her there until her mother's sentence had expired. But her mother was 'a most worthless depraved character who completely neglects her children'.¹⁷⁶ He believed that it was in the best interest of the child to place her in the Asylum at New Town, to be apprenticed when old enough.

Jones' letter was duly forwarded by the Colonial Secretary to the Committee of the Female Reformatory, with a brief note stating that: 'it would appear equally unwise to place this child in the Queen's Asylum, as in the mother's hands'. No explanation was given. It suggested that it might be possible 'through the agency of the Committee' to place the girl in 'some respectable service'.¹⁷⁷ Mrs Salier, Secretary of the Female Reformatory Committee, replied that Anastasia, who was Roman Catholic, could not be admitted because the institution was for Protestants only.¹⁷⁸

¹⁷⁵ AOT, SWD 26/9 26 January 1866: Leathley.

¹⁷⁶ AOT, SWD 26/9 26 January 1866: Leathley.

¹⁷⁷ AOT, SWD 26/9 February 1867: Leathley.

¹⁷⁸ AOT, SWD 26/9 8 February 1867: Leathley. See Brown, *Poverty is Not a Crime*, p.137, for reformatories and industrial schools.

Consequently, Anastasia was apprenticed to Andrew Curtain¹⁷⁹ of Franklin on 28 May 1868. Her apprenticeship expired on 11 March 1873.¹⁸⁰

The older Leathley boys were also apprenticed out.¹⁸¹ In 1871, David, aged eighteen, absconded from his employer, remaining at large for about three weeks.¹⁸² David moved to New Zealand sometime after his apprenticeship expired in 1876 and became a fisherman.¹⁸³ George, a labourer, died on 11 May 1915 at the Bridge Hotel, Smithton, from 'asphyxia' due to excessive drinking of alcohol.¹⁸⁴ The youngest surviving daughter, Sarah Leathley, married a sailor.¹⁸⁵ According to family historian Sharon Meyers, Sarah Leathley had 'a tragic life ... abandoned by just about everyone' and died in Hobart Prison in 1892.¹⁸⁶ The prison medical officer's last entry records:

¹⁷⁹ AOT, RGD 37/41 1882 Spring Bay No.957: Curtain/Leathley (23 December 1882). George Leathley, Anastasia's father, later married Catherine Curtain, widow of David Curtain, but it has not been determined whether there is any relationship to Andrew Curtain.

¹⁸⁰ AOT, RGD 33/5 1855 Hobart No.1904: Anastasia 'Leathally'; AOT, SWD 32/1. She married in 1874: AOT, RGD 37/33 1874 Hobart No.326: 'Leithly'/Sullivan (12 July 1874).

¹⁸¹ AOT, POL 709/1-2; AOT, SWD 32/1.

¹⁸² AOT, POL 709/1-2; AOT, SWD 32/1. See also Joyce Purtscher, *Apprentices and Absconders from Queen's Orphanage Hobart Town 1860-1883*, New Town, 1994, np. For absconding children, see Damousi, *Depraved and Disorderly*, pp.149-151.

¹⁸³ The first record of him in New Zealand was 1881 when he appeared in the electoral rolls as a fisherman and resident of Portobello. His family believe that he jumped ship in Lyttleton, New Zealand, and worked his way south. Another family story has David running away from a convent at the age of 9 and going to New Zealand. One of his occupations was that of fisherman. At the age of 31, described as a Tasmanian-born bushman, he married Mary Ann Pearce (nee Leitcher), a widow, in 1884 in Dunedin; she died of tuberculosis in September 1890 aged 45. David then married Annie Elizabeth Dalcom in 1891 at Portobello, Dunedin; they had 7 sons and 1 daughter: Sharon Meyers, *personal communication*, 1 March 1998.

¹⁸⁴ Tasmanian Death Certificate 1915 George Leathley; Sharon Meyers, *personal communication*, 1 March 1998: it is not known whether he married or had children.

¹⁸⁵ AOT, RGD 37/35 1876 No.319: Leathley/Gibbs. They were married in a Congregational ceremony at the residence of the Minister, John Wilkes Simmons, 287 Liverpool Street. Sarah was illiterate.

¹⁸⁶ Sharon Meyers, *personal communication*, 1 March 1998.

Sarah Leathley admitted August 2nd in an exhausted ... mentally and bodily and had been apprehended as a vagrant utterly desperate. It was first supposed that the stupor and imbecility ... due to the effects of drink & starvation she was very deaf and could give no satisfactory account of herself but laying in a state of delirium and muscular agitation and it was with great difficulty she could ... to take any nourishment. Her pulse was extremely feeble and her strength utterly exhausted. There was unmistakable ... extensive ... of the right lung. Her case to much hope ... the first and she died this morning at 5 am – inquest held verdict—natural causes.¹⁸⁷

Her death certificate (in the name of Leathley) stated that she died of natural causes consequent upon an old lung disease.¹⁸⁸ She was buried in a communal pauper's grave at Cornelian Bay, Hobart.¹⁸⁹ The Leathley family fractured as a result of the imprisonment of Catherine and George: none of the children appear to have been reunited following their removal from their parents. As Damousi commented, orphan schools were designed to protect helpless and innocent children but in practice created conditions which increased their vulnerability.¹⁹⁰

The cases of Elizabeth Coghlan, Bridget Dooling and Catherine Mannon demonstrate the way in which the admission of children to the Orphan School served as a form of social control: as Kociumbas argued, admission 'served as a disciplinary procedure for parents, too, since they were deprived of their offspring's labour and had to establish moral and financial credentials to get their children back'.¹⁹¹ She also suggested that 'This extended period of control over destitute children marked the tendency to widen the concept of prolonged dependence and malleability to all

¹⁸⁷ AOT, GD 33/1-3 1882.

¹⁸⁸ AOT, RGD 35/13 1892 Hobart No.1466: Sarah Leathley. This is indexed on the *Tasmanian Pioneer Index* as 'Seathley'.

¹⁸⁹ SRCT, Record ID 8866, Pauper, Section A, Site No.231: Sarah Leathley.

¹⁹⁰ Damousi, *Depraved and Disorderly*, p.153.

¹⁹¹ Kociumbas, *Australian Childhood*, p.45.

children, and was consistent with the legal status of children under English civil law'.¹⁹²

Outcomes for the children of the deliberate arsonists varied. Some died in the Orphan School. Orphan apprentices mostly became general servants. Boys were often employed as unskilled farm labourers or shepherds, although some learned a skilled trade.¹⁹³ Generally speaking, however, descendants of the deliberate arsonist comprised a broad cross-section of Australian society. Grandchildren of the deliberate arsonists served in World War I. Lloyd and William Hutchins, grandsons of Mary Madigan, who both served in World War I, are remembered on the Beaconsfield War Memorial.¹⁹⁴ Frank Polley, grandson of Margaret Stafford, enlisted on 31 August 1915 and served for four years. A private when he was discharged, he is remembered on the Fingal War Memorial.¹⁹⁵ A grandson of Eliza Jones, Tasman Oliver Woolley, served in the New Zealand Army during World War I.¹⁹⁶ Present-day descendants include an Australian senator and the Speaker of a State House of Assembly.¹⁹⁷

¹⁹² Kociumbas, *Australian Childhood*, p.45.

¹⁹³ Kociumbas, *Australian Childhood*, pp.45-46.

¹⁹⁴ TAMIOT; *Weekly Courier* 9 March 1916 p.22, 14 December 1916 p.24; 16 December 1916 p.15; Driver Lloyd Hutchins, of Beaconsfield; *Weekly Courier* 5 October 1916 p.23. p.36, 12 October 1916 p.35; Private William F. Hutchins, 47th Battalion;

¹⁹⁵ Joyce O'Shea, *personal communication*, 23 April 2004.

¹⁹⁶ Woolley, *Above the Falls*, p.124.

¹⁹⁷ See Volume Two: Biographies of Deliberate Arsonists.



Figure 43: Headstone of Corporal Jack Perry, grandson of Mary (Prendgast) Perry, Killed in action in France 12 October 1917 aged 23. Ranelagh Cemetery.

Kociumbas suggested that convict families who found social and economic security provided 'stable and contented homes' for their children, who often settled in the same 'clannish areas' where their parents settled.¹⁹⁸ Certainly, there is evidence to show that some of the families of the deliberate arsonists settled near their parents, often in pockets of Irish communities such as the Huon, Westbury and Deloraine.

¹⁹⁸ Kociumbas, *Australian Childhood*, p.54. For clannishness, J.C.R. Camm and J. McQuilton (eds) *Australians: A Historical Atlas*, Sydney, 1987, pp.147, 202-3; J Waldersee, *Catholic Society in New South Wales 1788-1860*, Sydney, 1974, pp.99, 100-2, 104; Belcher, 'The Child in New South Wales Society', pp.viii-ix.

Information about the families of the deliberate arsonists, and convict women generally, is distorted by the availability of records. More information can be found for those women who came into contact with government authorities or some sort of institution such as the Benevolent Society. In the main, these are the women who were marginalised or impoverished, at least at the time of contact. Much less information is available about those women who settled to a stable family life. To some extent, family history records and techniques are limited in finding out the detail of the lives of these women: while they provide information about the names and number of children, and their personal details, it is easy to assume that is all there is. As Dymphna McLoughlin argued, details associated with the sexuality of women, including the birth of children, could be easily concealed because it was not subjected to sustained official scrutiny.¹⁹⁹

It is easy to stereotype the deliberate arsonists, and convict women generally, as the 'good' convict mother, who raised a stable family, and the 'bad' convict mother, plagued by drunkenness and immorality. Yet the groups were not mutually exclusive and some of the women do not fit easily into such rigid classifications. Many appear to have struggled with the responsibilities of motherhood, but were nonetheless 'good' mothers. That the distinction is artificial is demonstrated by the case of Alice Julian, who arrived in Van Diemen's Land as a young dairymaid in 1852.²⁰⁰ While serving her sentence, Alice Julian was punished for minor offences, such as refusing

¹⁹⁹ McLoughlin, 'Women and Sexuality', pp.266-275.

²⁰⁰ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443.

to work, being absent without leave and disobedience of orders. She applied twice to marry Alfred Walker in 1854 and they married the following year.²⁰¹ Shortly afterwards, she received her ticket-of-leave.²⁰² Her first child was born just after she was recommended for a conditional pardon.²⁰³ By the time she received her Free Certificate in 1859; she had two children and was pregnant with a third.²⁰⁴

It is tempting to assume that this was the beginning of a stable marriage and large family. However, in 1867, as 'Ellen Walker', Alice was tried in the Police Court in Hobart with having feloniously uttered a counterfeit coin of the realm, with intent to defraud. Although by this time Alice was technically free, the details were recorded on her original convict record. Newspaper reports of the trial suggested that economically the family was struggling.²⁰⁵ There was no mention of Alfred Walker, except indirectly in a suggestion from Sir Valentine Fleming, the Chief Justice, that Alice committed the crime because she was 'not satisfied with the money her husband obtained by honest work, and that she allowed herself to fall into this mode of obtaining money by passing spurious coin'.²⁰⁶ In consideration of her good character, and her record since she became free, Fleming did not impose the 'extreme

²⁰¹ AOT, CON 52/7 p.522: Julian/Walker; CON 52/7 p.530: Julian/Walker; AOT, RGD 37/14 1855 Hobart No.260: Julian/Walker.

²⁰² AOT, CON 41/35 Alice Julian *Martin Luther* No.443.

²⁰³ AOT, CON 41/35 Alice Julian *Martin Luther* No.443; AOT, RGD 33/6 1856 Hobart No.861: Sarah Walker.

²⁰⁴ AOT, CON 41/35: Alice Julian *Martin Luther* No.443; AOT, RGD 33/6 1856 Hobart No.861: Sarah Walker; AOT, RGD 33/7 1857 Hobart No.831: female Walker; AOT, RGD 33/7 1859 Hobart No.2854: Thomas Alfred Walker.

²⁰⁵ *The Mercury* 3 April 1867 p.2 col.5, p.3 cols.3-4; 10 May 1867 p.2 col.6; 3 July 1867 p.3 cols.2-3.

²⁰⁶ *The Mercury* 3 July 1867 p.3 cols.2-3.

penalty' of twelve months' imprisonment instead sentencing her to eight months.²⁰⁷ She was sent to the Cascade prison. This was to have a tragic repercussion. At the time of her trial, Alice had five children, the youngest aged eighteen months. She accompanied her mother to gaol, but died there of a 'strumous abscess' twelve days later.²⁰⁸ Furthermore, Alice was pregnant at the time of her trial. Her sixth child was born in the gaol in October 1867. It appears the family decided to move from Hobart after Alice was released. A seventh child was born in Launceston in 1870.²⁰⁹ The family then moved to Victoria, where the youngest child was born in 1872.²¹⁰

According to her great-grandson, Alice Walker was the main breadwinner for the family, working as a nurse and midwife, as well as delivering many of her grandchildren and great-grandchildren.²¹¹ In this respect, she provides a sound example of Oxley's definition of a good convict mother: one who contributed to the economy and was an active economic agent.²¹² She serves as a warning against stereotyping and as a reminder that the circumstances of convict mothers changed over time. Above all, she exemplifies the difficulties inherent in the 'good convict' mother debate. Even for recidivists, and those tainted with drunkenness and immorality, it was possible to be a good mother.

²⁰⁷ *The Mercury* 3 July 1867 p.3 cols.2-3.

²⁰⁸ AOT, RGD 35/7 Hobart 1867 Hobart No.6859: Rosaline Mary Walker (15 July 1867).

²⁰⁹ AOT, RGD 33/48 1870 Launceston No.227: Maria Mary Walker (15 October 1870).

²¹⁰ Victorian Birth Certificate 1873 No.1541: Beatrice Walker.

²¹¹ Gordon Roberts, *personal communication*, 15 July 1998.

²¹² Oxley, *Convict Maids*, p.10.

Maintaining family links

There is ample evidence that many deliberate arsonists, like convict parents generally, were part of a wider family-based culture. Many maintained links with their children, establishing strong family groups. Celia (Kavanagh) Hurley, her husband and children, became a railway family in Victoria and New South Wales, where they settled.²¹³ When Celia, a gatekeeper on the Victorian Railways, died in 1894, her youngest daughter registered the death. She was able to name her grandmother as Catherine, indicating that some family knowledge was retained and passed from mother to daughter.²¹⁴

Like Celia (Kavanagh) Hurley, several of the deliberate arsonists were living with, or in contact with, their children when they died. Ninety-year-old Elizabeth Kehoe, the mother of arsonist Margaret (Keogh) Wallace, died at her daughter's Launceston home in 1887.²¹⁵

Other family connections are revealed in civil registration or church records. Johanna Fulford registered the births of two of her grandchildren: one at Native Corners in 1871 and another at Waratah in 1891.²¹⁶ In 1855, the birth of Thomas Ryan, son of William and Allie (Griffiths), was registered by his aunt, Mary Ryan.²¹⁷ Sisters

²¹³ Olive Coleman, *personal communication*, 15 July 1999; NSW Death Certificate 1928 No.1362: Richard Hurley. He was buried in the Church of England section of Rookwood cemetery.

²¹⁴ Victorian Death Certificate 1894 No.3784: Celia Hurley.

²¹⁵ AOT, RGD 35/56 1887 Launceston No.360: Elizabeth Kehoe (23 September 1887).

²¹⁶ AOT, RGD 33/51 Richmond No.1565: Charles Fulford (3 June 1873); AOT, RGD 33/72 1891 Waratah No.3721: Esther Elizabeth Stone (7 April 1891).

²¹⁷ AOT, RGD 33/6 1855 Hobart No.276: Thomas Ryan.

Margaret and Bridget McNamara both settled in the Huon district, and, when Margaret's son was baptised, his sponsors were his aunt, Bridget, and her husband.²¹⁸ Ann (Corry) Gallagher and her convict sister, Margaret Quealy, were witnesses at each other's wedding, and sponsors at the baptisms of each other's children.²¹⁹ As already noted, when application was made for the admission of George and David Leathley to the Queen's Asylum for Destitute Children in 1866, their father suggested that his brother, David, might care for them.²²⁰

Mary Nolan alias Butler committed arson in order to follow her transported daughter, Margaret Butler.²²¹ It is possible that mother and daughter were reunited; they were certainly living close to each other at different times, at least until 1858, when Mary Nolan was admitted to the Asylum at New Norfolk, where she remained until her death nearly fifteen years later.²²² In December 1851, Mary Nolan was at the Brickfields, before being sent to the House of Correction; her daughter was at Brickfields in January 1852. Margaret Butler was sent to the Ross Female Factory in January 1852, where she gave birth to a son in April 1852. On 9 February 1853, her mother was at the Female Hiring Depot, part of the Ross Female Factory, before being employed in Campbell Town. Over the next weeks, she was in and out of the

²¹⁸ Purtscher (comp.), *Father John Murphy's 'Saddlebag' Records*, np.

²¹⁹ AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000; AOT, CON 41/19 Margaret Quealy *Kinnear* 1848No.26; AOT, RGD 37/10 1851 Hobart No.524: Corry/Gallagher (7 April 1851); AOT, NS 1052/13 Roman Catholic Baptisms Campbell Town and Ross (29 April 1862); AOT, NS 1052/13 Roman Catholic Marriages Campbell Town and Ross (30 April 1862).

²²⁰ AOT, SWD 26/9 1866: Leathley.

²²¹ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. Her daughter, Peggy (Margaret) Butler, arrived on the *Earl Grey*.

²²² AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208; AOT, RGD 35/41 1872 New Norfolk No.337: Mary 'Nowlan'; AOT, HSD 51/1 Folio 233: Mary Nolan.

factory at Ross, as was her daughter. When her daughter married in the Roman Catholic Church in Ross in April 1854, Mary Nolan was assigned in Oatlands.²²³ Given their proximity over a number of years, it is likely that Mary Nolan was successful in reuniting with her daughter, if only briefly.

Ellen Murphy committed arson to follow her mother, Elizabeth Brennan.²²⁴ That they maintained contact is evidenced in 1854, when Elizabeth Hughes, 'grandmother', registered the birth of Ellen Murphy's son.²²⁵

Others remembered their Irish families in the naming of their children. Ellen Wiseman had three brothers: James, Matthew and John. One of her sons was named James; another was Matthew John.²²⁶ Catherine Mannon's mother was Anastasia, as was her eldest daughter.²²⁷ Her son, David, appears to have been named for his convict uncle.²²⁸ Ann Corry's children were named after her brothers, Pat and John; a daughter was named for her mother Bridget.²²⁹ Margaret Butler named her

²²³ AOT, RGD 37/13 1854 Campbell Town No.94: Butler/Gillam.

²²⁴ AOT, CON 15/5 Ellen Murphy *Lord Auckland* (3) 1849 No.960.

²²⁵ AOT, RGD 33/5 1854 Hobart No.1274: James Dickenson. Elizabeth Brennan married Joseph Hughes.

²²⁶ AOT, CON 41/26 Ellen Wiseman *Earl Grey* 1850 No.862; AOT, RGD 33/38 1860 Westbury No.2227: James Cousins (26 February 1860); AOT, RGD 33/53 1875 Westbury No.1884: Matthew John Cousins (13 July 1875).

²²⁷ AOT, CON 15/6 Catherine Mannon *Earl Grey* 1850 No.1092; AOT, RGD 33/5 1855 Hobart No.1904: Anastasia 'Leathally' (8 March 1855).

²²⁸ AOT, RGD 33/5 1853 Hobart No.2498: David 'Leethley'; AOT, CON 33/86 and CON 17/1 p.60: David Leathley *John Calvin* No.20356.

²²⁹ AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000; AOT, NS 1052/13 Roman Catholic Baptisms Campbell Town and Ross: Patrick Gallagher (29 April 1862); AOT, RGD 33/33 1855 Richmond No.1351: John 'Galaha' (4 January 1855); AOT, RGD 33/40 1862 Glamorgan No.599: Bridget Gallagher (24 December 1861).

daughter, Mary, possibly after her mother.²³⁰ Alice Julian seemingly named one of her daughters Maria Mary, after her mother, Mary, and another, factory-born Amelia, after her sister.²³¹ Ellen Murphy named one of her sons after her brother Robert and her daughter, Elizabeth, after her mother.²³²

Ellen (Ryan) and John Dwyer moved to Victoria by 1871: a son, Anthony, was born in Victoria in that year, and was probably named for his paternal uncle.²³³ When Ellen Dwyer died in 1888, her death certificate named both her parents, and gave their occupations.²³⁴ Information about her marriage, however, was inaccurate, and it is impossible to say whether this was a genuine mistake or an attempt to hide a convict or Van Diemen's Land past. Her death certificate stated that she was married in Geelong, Victoria, at the age of twenty-two, when she actually married in Hobart in 1854, aged twenty-five.²³⁵

Convict parents were also remembered in the naming of children: William, son of Margaret Leary and James Nicholls, named his daughter Elizabeth Margaret and sons Richard James and Gladstone James; his sister named her daughter Helena Margaret

²³⁰ AOT, NS 1052/13 Roman Catholic Baptism Registers Campbell Town and Ross 1845-1854 (19 September 1854): Mary Gillon.

²³¹ AOT, CON 15/7 Alice Julian *Martin Luther* No.443; AOT, RGD 33/9 1867 Hobart No.9569: Amelia Walker (8 October 1867); AOT, RGD 33/48 1870 Launceston No.227: Maria Mary Walker (15 October 1870).

²³² AOT, CON 15/5 Ellen Murphy *Lord Auckland* (3) 1849 No.960; AOT, RGD 33/7 1860 Hobart No.3318: (Robert) Dickinson (2 April 1860); AOT, RGD 33/9 1865 Hobart No.7510: Elizabeth Charlotte Dickenson (12 March 1865).

²³³ AOT, CON 15/8 Ellen Ryan *Midlothian* 1853 No.629; Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

²³⁴ Victorian Death Certificate 1888 No.7986: Ellen Dwyer.

²³⁵ Victorian Death Certificate 1888 No.7986: Ellen Dwyer; AOT, RGD 37/13 1854 Hobart No.706: Ryan/Dwyer (20 May 1854).

and son John James.²³⁶ Margaret Stafford and Franklin Polley had grandsons named Christopher Stafford O'Shea and Henry Edward Polley O'Shea.²³⁷ The eldest son in this family was Franklin O'Shea; two daughters were named Margaret.²³⁸ Three more of their grandchildren were named for their convict grandparents: siblings Margaret Polley and Francis Polley, and their younger cousin, Frank Polley.²³⁹

Kociumbas outlined the colonial belief that 'all too often convicts were considered devoid of natural affections'.²⁴⁰ Yet evidence from the deliberate arsonists suggests that this was not the case: mothers like Bridget Dooling negotiated for the release of her children from the Orphan School on more than one occasion. Others maintained contact with their children and grandchildren, recreating extended families to replace those left behind and remembering their Irish families in the naming of their children.

Conclusion

A study of the families of the deliberate arsonists contributes to an understanding of the colonial experience of the women. The records associated with creation and care

²³⁶ AOT, RGD 33/12 1880 Hobart No.1543: Elizabeth Margaret Nichols (29 February 1880); AOT, RGD 33/12 1881 Hobart No.2996: Richard James Nichols (12 October 1881); AOT, RGD 33/68 1895 Fingal No.864: Gladstone James Nichols (24 November 1895); AOT, RGD 33/16 1889 Hobart No.757: Helena Margaret Breen (17 February 1889); AOT, RGD 33/11 1877 Hobart No.2923: John James Breen (20 July 1877).

²³⁷ AOT, RGD 33/71 1891 Fingal No.1590: Christopher Stafford O'Shea (30 May 1891); AOT, RGD 33/77 1894 Fingal No.785: Henry Edward Polley O'Shea (9 May 1894).

²³⁸ AOT, RGD 33/56 1878 Fingal No. 540: Franklin O'Shea (31 May 1878); AOT, RGD 33/80 1895 Fingal No.809: Margaret Augustine O'Shea (28 August 1895); AOT, RGD 35/65 1896 Fingal No.215: Margaret Augustine O'Shea (20 February 1896); AOT, RGD 33/82 1896 Fingal No.815: Margaret Ellen O'Shea (23 October 1896); AOT, RGD 35/65 1896 Fingal No.238: Margaret Ellen O'Shea (13 November 1896).

²³⁹ AOT, RGD 33/70 1890 Ringarooma No.2830: Margaret Ellen Polley (22 December 1889); AOT, RGD 33/87 1899 Westbury No.2942: Francis John Polley (4 October 1898); AOT, RGD 33/69 1890 Fingal No.1531: Frank John Polley (11 April 1890).

²⁴⁰ Kociumbas, *Australian Childhood*, p.43. See also Phillips, 'Convicts, communications and authority', esp. Ch.5.

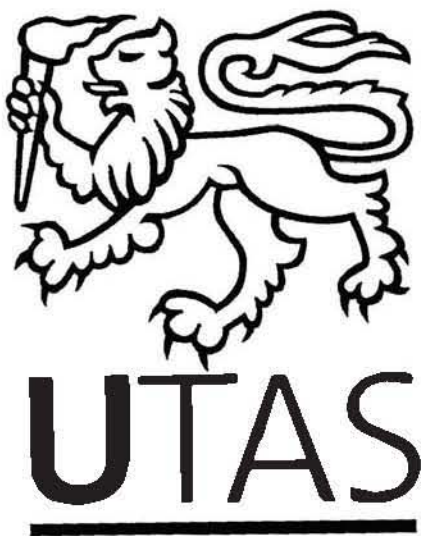
of families, scanty as they are, reveal aspects of the lifestyles and life experience of the women. Nearly three-quarters of the deliberate arsonists had at least one child in the colony, and several had large families of more than six children. Approximately one-sixth of the women had illegitimate factory-born children; of these, at least four-fifths died. Of those who had illegitimate children under sentence, nearly two-fifths do not appear to have had more children. How different this was to the possible life experiences of the women had they stayed in Ireland remains problematic. It seems likely that the deliberate arsonists were not significantly different from any other group of convict women. The life experience of the majority of the women contradicts Damousi's argument that maternity was denied convict women.²⁴¹ There is, however, evidence to support Robinson's argument that convict mothers could also be 'good mothers': some of the women appear to have adopted a strong family-based culture which played a significant part in determining their life experience.²⁴² Women like Bridget Dooling fought to care for their children despite difficult circumstances and damning police reports about behaviour and moral fitness. There is evidence, too, to support Oxley's definition of a good convict mother as one who contributed to the economy, who was an active economic agent.²⁴³ Above all, the familial experience of the deliberate arsonists demonstrates the pervasiveness of Damousi's 'paradox of convict mothers': the women were valued for their role in

²⁴¹ Damousi, *Depraved and Disorderly*, p.119.

²⁴² Robinson, *Botany Bay*, p.8.

²⁴³ Oxley, *Convict Maids*, p.10.

procreation but, because of their convict status, were often viewed negatively as mothers.²⁴⁴



²⁴⁴ Damousi, *Depraved and Disorderly*, p.119

Chapter Six: Working

In 1859, Margaret Byrne was the last of the arsonists to be granted a conditional pardon, nine years after her arrival in the colony. At the age of twenty, she had been sentenced to death for committing arson 'in anticipation of being transported'; this was later commuted to transportation for life.¹ Although she was assigned to several employers, she was not charged with any colonial offence. Described as a servant, she married a labourer, who was later a hawker in Launceston.²

Margaret Byrne *Earl Grey* 1850 No. 1048

31 December 1852:	House of Correction
3 January 1853:	assigned to J. Semple, Elizabeth Street
15 April 1853:	House of Correction
16 May 1853:	assigned to J. Savage, Davey Street, then at the hospital
31 October 1853:	House of Correction
7 November 1853:	assigned to Mrs. Cox, Patrick Street, then at the hospital
2 December 1853:	House of Correction
3 December 1853:	assigned to Mrs. Archer, Sandy Bay
29 August 1854:	ticket-of-leave
12 January 1858:	applied for permission to marry
1 February 1858:	married; described herself as a servant
25 January 1859:	son born Hobart
29 March 1859:	recommended for conditional pardon
27 September 1859:	conditional pardon approved
29 August 1860:	daughter born Launceston
20 November 1861:	daughter born Launceston
19 March 1863:	son born Launceston
3 August 1866:	son born Launceston

¹ NAI, CRF 1849/B 25: Margaret Byrne.

² AOT, CON 41/26 and CON 15/6 Margaret Butler *Earl Grey* 1850 No.1048; AOT, CON 52/7 p.298: Byrne/Mills; AOT, RGD 37/17 1858 Hobart No.343: Byrne/Mills (1 February 1858).

The outline of her colonial life, extracted from official records, reveals little of the work that she did, or how she managed to survive, and this is typical of the deliberate arsonists generally. Yet working and surviving were an intrinsic part of the colonial experience of the deliberate arsonists, shaping outcomes and determining whether the women ultimately succeeded.

Little has been written about post-sentence convict life, including work and survival strategies. This chapter begins by analysing the skills that the deliberate arsonists brought with them to the colony. It then examines the employment of the women after sentence, and the impact of depressed economic conditions in the 1860s.

Information about the occupations of transported women on arrival can be gleaned from their convict indents, which recorded quite specific occupational information.³ It is worth noting, however, that over half of the deliberate arsonists, on admittance to Grangegorman penitentiary, gave no trade or occupation.⁴ As Figure 31 demonstrated, country servants formed the largest occupational grouping among the

³ Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995, p.128: occupational information was available for 81.2% of women in Reid's study. For some of the remaining women, records no longer exist. Others died on board, and so the information, taken on arrival, is non-existent. Some were sick or infirm on arrival, and were not able to provide information. Others simply had recorded 'girl' with no occupational title. Records for the period before Governor Arthur's administration were particularly lacking in information.

⁴ See, for example, NAI, Prisons 1/9/4 No.515 p.53; AOT, CON 41/5 and CON 15/3 Maria Lynch *Tasmania* (2) 1845 No.356: on arrival, she was described as a farm servant or housemaid. NAI, Prisons 1/9/4 No.654 p.67; AOT, CON 41/12 and CON 15/4 Anne Mahoney *Arabian* 1847 No.739: on arrival, she was described as a housemaid.

deliberate arsonists.⁵ One of the few specific agricultural occupations was that of dairymaid; only two fall into this category.⁶ In some instances, a second occupation was recorded on the indent.⁷ Mary Paid, for example, was a twenty-year-old housemaid and laundress.⁸ The second occupation was often that of laundress. Sometimes the record simply noted that the woman could wash, an indication of the value placed on this skill in the colony.⁹

Employment opportunities for women in Ireland in the years immediately after the Famine were limited, and this is reflected in the narrow range of occupations of the deliberate arsonists. Over half of the deliberate arsonists admitted to Grangegorman were recorded as having no trade or occupation; nearly as many were recorded simply as servants.¹⁰ Mary E. Daly examined the changing patterns of work in Ireland,

⁵ See also John Williams, *Ordered to the Island. Irish Convicts and Van Diemen's Land*, Sydney, 1994, p. 73: Williams calculated 46% of arsonists gave their occupation as country servant.

⁶ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No.443. AOT, CON 41/20, CON 15/5 and CON 19/7 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

⁷ Reid, 'Work, Sexuality and Resistance', p.128. Reid found that, of those for whom information was available, 41% stated a second occupation. The majority of occupations (78%) were domestic, ranging from housemaid and kitchenmaid to professional cook, governess and lady's maid. Housemaids/servants accounted for one-third. Farm servants and dairyworkers accounted for 9% while 11% were from clothing, needle and shoe trades; and 2% from miscellaneous trades.

⁸ AOT, CON 41/20 Mary Paid *Lord Auckland* 1849 No.391.

⁹ Among the Irish female arsonists, dual occupations included plain laundress and country servant; housemaid who could wash; housemaid and needlewoman; and a house and dairymaid: AOT, CON 41/24 Margaret Connell *Australasia* 1849 No.1005; AOT, CON 41/26 Winefred Huskinson *Earl Grey* 1850 No.834; AOT, CON 41/30 Margaret Walsh 2nd *Blackfriar* 1851 No.898; AOT, CON 41/26 Anne Kerwin *Earl Grey* 1850 No.395.

¹⁰ NAI, Prisons 1/9/4. Other Grangegorman-recorded occupations included labourer: NAI, Prisons 1/9/4 No.2882 p.291 'Allice' Julian (on arrival, dairymaid) and NAI, Prisons 1/9/4 No.2923 p.295 Eleanor Quirk (on arrival, nursemaid); plain worker: NAI, Prisons 1/9/4 No.2852 p.287 Rosanna Berry (on arrival, nursemaid); housekeeper: NAI, Prisons 1/9/4 No.2895 p.291 Catherine Hayes (on arrival, country servant); farm servant: NAI, Prisons 1/9/4 No.2905 p.293 Eliza Roche (on arrival, not recorded); and children's nurse: NAI, Prisons 1/9/4 No.2904 p.293 Johanna Sullivan (on arrival, child's maid).

particularly the declining overall employment in the post-Famine period.¹¹ Beyond the industrialised areas of Ulster and the cities of Dublin and Cork, women's work outside the family economy was largely restricted to domestic service and was very much determined by gender.¹² From the 1830s, there was very little paid agricultural employment open to women: two to three weeks at harvest time and another two to three weeks setting out potatoes, and this was mainly carried out by younger single women without children.¹³ Dairying was the only type of agricultural work to provide year-round paid employment for women.¹⁴ According to Daly, in 1841, only 12.5 per cent of women were engaged in agricultural or food sectors. Post-Famine agriculture increasingly relied on family members rather than hired labourers.¹⁵ The dominant, though largely hidden, role of Irish rural women was that of

¹¹ Mary E. Daly, *Women and Work in Ireland*, Dublin, 1997. For the deterioration of the position of women in the paid labour market in late 19th century Ireland, see Joanna Bourke, '“The Best of all Home Rulers”: The Economic Power of Women in Ireland, 1880-1914', *Irish Economic and Social History*, Vol.XVIII, 1991, pp.34-47. See also Joanna Bourke, 'Women and Poultry in Ireland, 1891-1914', *Irish Historical Studies*, May 1987, pp.293-310 and 'Dairymaids and Housewives: The Dairy Industry in Ireland 1890-1914', *Agricultural History Review*, Vol.XIV, 1990, pp.149-164. See also Joanna Bourke, *Husbandry to Housewifery: Women, Economic Change and Housework in Ireland, 1890-1914*, Oxford, 1993.

¹² Daly, *Women and Work in Ireland*, p.19. See also L.A. Clarkson, 'Love, Labour and Life: Women in Carrick-on-Suir in the Late Eighteenth Century', *Irish Economic and Social History*, Vol.XX, 1993, pp.25-27: Clarkson concluded that as well as domestic service, women were employed to a lesser extent in occupations such as lodging housekeepers and innkeepers. For Dublin in the 18th and early 19th centuries, see Imelda Brophy, 'Women in the Workforce' in David Dickson (ed.) *The Gorgeous Mask: Dublin 1700-1850*, Dublin, 1987, pp.51-63.

¹³ Daly, *Women and Work in Ireland*, p.13.

¹⁴ Daly, *Women and Work in Ireland*, p.12.

¹⁵ Daly, *Women and Work in Ireland*, p.19. See also see J.J. Lee, 'Women and the Church since the Famine' in Margaret Mac Curtain, and Donncha Ó Corráin, *Women in Irish Society. The Historical Dimension*, Westport, Connecticut. 1979, pp.40-41.

'houseworker':¹⁶ women as housekeepers, cooks, nurses, dressmakers, and general 'factotums'.¹⁷

There has been considerable debate among historians about the economic power of women in nineteenth-century Ireland, given restricted employment opportunities.¹⁸ Historians such as David Fitzpatrick, Robert E. Kennedy, Thomas G. Conway, J.J. Lee and James Connolly concluded that the nineteenth century was 'a dismal period for Irishwomen',¹⁹ a period of male dominance and repression. Joanna Bourke, however, criticised those 'Historians and economists [who] generally (and prudently) choose to narrowly define "labour" as paid employment, ignoring the largest sector of work: that is, unpaid work within the house'.²⁰ Examining the economic power of rural women in Ireland during the late nineteenth century, Bourke rejected the thesis that powerlessness was characteristic of women's lives, and that the movement of women into 'the unwaged domestic sphere allegedly disarmed them'.²¹ Nevertheless,

¹⁶ The term 'houseworker' is used by Joanna Bourke in preference to 'housewife' and has been adopted by others such as Clarkson. See Bourke, 'The Best of all Home Rulers', p.35.

¹⁷ Clarkson, 'Love, Labour and Life', p.27. See also Nuala Cullen, 'Women and the Preparation of Food' in Margaret MacCurtain and Mary O'Dowd (eds.), *Women in Early Modern Ireland*, Dublin and Edinburgh, 1991, pp.265-275.

¹⁸ For a summary of the debate, see Bourke, 'The Best of all Home Rulers', pp.34-47.

¹⁹ David Fitzpatrick, ' "A Share of the Honeycomb": Education, Emigration and Irishwomen', *Continuity and Change*, Vol.1, 1986, p.217. See also Robert E. Kennedy, *The Irish: Emigration, Marriage and Fertility*, Berkeley and London, 1973, p.84; Thomas G. Conway, 'Women's Work in Ireland', *Eire-Ireland*, Vol.7, 1972, p.27; J.J. Lee, 'Women and the Church Since the Famine', in MacCurtain and O'Corrain (eds.), *Women In Irish Society*, p.37.

²⁰ Joanna Bourke, 'The Household Economy and Female Labour: Rural Ireland, 1890-1914', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.30. See also Bourke, 'The Best of all Home Rulers', p.35.

²¹ Bourke, 'The Best of all Home Rulers', p.34.

women were concentrated in a narrow range of occupations, determined by gender and often unskilled and lowly paid.²²

Oxley's study of the indents of women transported between 1826 and 1840 revealed that convict women were concentrated in the 'service sector' – jobs that were extensions of women's domestic responsibilities such as cooking, cleaning, and caring.²³ Oxley isolated fifteen different types of servants. She commented: 'Some distinctions undoubtedly arose from idiosyncrasies among the recorders who compiled the convict indents, and also from regional differences in nomenclature'.²⁴ Other distinctions can be attributed to a recognition of specific skills and different employment demands: 'The dividing line between "laundress", "laundrymaid" and "washerwoman" was significant in terms of employment status, experience, age, ownership of the requisite tools, physical locality of employment, and whether a woman was single, married or widowed'.²⁵ In the case of the deliberate arsonists, these distinctions are hard to find, except perhaps in the case of nursemaids and nursemaids. Younger girls tended to be recorded as nursemaids. Some were also

²² This was also true of colonial Tasmania: see Alison Alexander, 'The Public Role of Women in Tasmania, 1803-1914', unpublished Ph.D. Thesis, University of Tasmania, 1989: there were few occupational opportunities; almost all were concentrated in the service sector, with domestic service predominant.

²³ Deborah Oxley, *Convict Maids. The Forced Migration of Women to Australia*, Melbourne, 1996, pp.118-121: just over 20% gave their occupation as housemaid; 18% as 'all work'; nearly 8% as kitchenmaid; nearly 7% as nursemaid; and just over 6% as cook. These were followed by laundress (nearly 6%); dairymaid (just over 5%); needlewoman (nearly 5%); country servant (nearly 4%); laundrymaid (nearly 3%); washerwoman (2%); and child's maid (2%).

²⁴ Oxley, *Convict Maids*, p.118.

²⁵ Oxley, *Convict Maids*, p.119.

recorded as child's maids.²⁶ None of those recorded as country servants gave additional information about their occupational skills, and there is no supplementary data on their indents which suggested Oxley's recognition of different skills.

Neither Oxley nor Reid separated Irish or rural convict women in their discussion of occupations, but there were significant differences, with a much higher number of country servants from Ireland.²⁷ Swift suggested that there were substantial deviations in the types of skills held by agricultural workers from Ireland and England, created by Irish 'subsistence agriculture' and British 'commercial agriculture'.²⁸

Colonial perceptions also differentiated between English and Irish servants: Governor Denison commented, in 1853, that there must be a pressing demand for labour 'when Irish convicts against whom strong prejudices are usually held ... find ready hirers'.²⁹ Irish women from rural areas, in particular, were considered not

²⁶ Ellen Murphy and Margaret Foley, both aged 17, were nursemaids. Those designated 'nursemaids' were 18-year-old Celia Kavanagh, 19-year-old Mary Madigan and 19-year-old Eliza Guilfoyle. Julia McCarthy, aged 18, was a 'childsmaid'. See AOT, CON 41/20 Ellen Murphy *Lord Auckland* (3) 1849 No.960; AOT, CON 41/30 Margaret Foley *Blackfriar* 1851 No.486; AOT, CON 41/26 Celia Kavanagh *Earl Grey* 1850 No.383; AOT, CON 41/19 Mary Madigan *Kinnear* (2) 1848 No.903; AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, CON 41/22 Julia McCarthy *Maria* (2) 1849 No.983. See also Williams, *Ordered to the Island*, p.19: 59% of nursemaids transported from Ireland were under the age of 20.

²⁷ Williams, *Ordered to the Island*, p.17: the majority of Irish convict women to Van Diemen's Land, were housemaids (39%) followed closely by country servants (33%); the rest were nursemaids (12%), laundress (9%), needlewoman (3%) and cook (3%).

²⁸ Roger Swift, 'The historiography of the Irish in nineteenth-century Britain', in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 2. The Irish in the New Communities*, London, 1992, p.58.

²⁹ AOT, GO 33/78 Denison to Newcastle, 30 April 1853.

suitable for domestic service.³⁰ They were, however, considered suitable for service in the 'Interior': that is, the rural parts of the colony.

Oxley suggested that convicts were broadly representative of the British and Irish working-class.³¹ Reid, however, argued that this was not strictly true, and that, while convict women were drawn from the working-class, they were predominantly from its poorest, most marginal sections rather than broadly representative.³² She asserted that very few women were drawn from trades which had a degree of job security or relatively good wages; most were from limited employment sectors such as domestic service, laundrywork, clothing, needle and shoe trades, and agricultural work – areas characterised by extremes of poverty and unemployment.³³ This is certainly true of the deliberate arsonists, the majority of whom were country servants.

Only one of the deliberate arsonists appears to have acquired a trade of any sort.³⁴ Mary Nowlan, originally from Bradford, Yorkshire, was a confectioner.³⁵ There is no evidence to suggest that she was ever employed as a confectioner in Van Diemen's

³⁰ John Williams, 'Irish Convicts in Tasmania', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, pp.28-29.

³¹ Deborah Oxley, 'Female Convicts' in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.85-97. See also Stephen Nicholas and Peter R. Shergold, 'Convicts as Workers' in Nicholas (ed.), *Convict Workers*, pp.62-84, who concluded that transported convicts were a cross-section of the working class and that no criminal class existed.

³² Reid, 'Work, Sexuality and Resistance', p.42.

³³ Reid, 'Work, Sexuality and Resistance', pp.128-129: the majority (78%) of occupations were domestic, ranging from housemaid and kitchenmaid to professional cook, governess and lady's maid. Housemaids/servants accounted for 1/3 of stated occupations. Farm servants and dairyworkers accounted for 9%; 11% were from clothing, needle and shoe trades; and 2%, miscellaneous trades.

³⁴ The Irish female arsonists included a dressmaker, 'professed cook', and plain cook and laundress: AOT, CON 41/33 Martha Dunlop *John William Dare* 1852 No.802; AOT, CON 41/26 Honora McCarthy *Earl Grey* 1850 No.1114; AOT, CON 41/30 Jane Moorhead *Blackfriar* 1851 No.1254.

³⁵ AOT, CON 41/26 and CON 15/6 Mary Nowlan 1st *Earl Grey* 1850 No.199.

Land, although she may have helped her husband in his tobacconist shop – in 1854, she was sitting behind the shop's counter when she was assaulted.³⁶ In Van Diemen's Land, little work has been done on matching skills to employment demands among female convicts, but at least one deliberate arsonist, described as a nurse-girl on her indent, was employed looking after children in the colony.³⁷

One of the arsonists admitted to living by thieving in Ireland. Twenty-one-year-old nursemaid, Johanna Walsh, had three previous convictions, and admitted to 'living six months by thieving'.³⁸ But Johanna was by no means a professional criminal. As Oxley suggested, crime offered a supplementary income and alternative to the workhouse for the lowly-paid and unemployed; it was not indicative of the existence of a professional criminal class.³⁹ There is no suggestion that Johanna lived by thieving in Van Diemen's Land, although she was brought before the court on one occasion. Less than a year after her arrival, while under assignment, she was charged with larceny under £5, but was not convicted as the prosecutor failed to appear. Perhaps this was a continuation of her old ways; perhaps it was a ploy to be returned to the government and to be reassigned. Whatever the reason, there is no further evidence that she stole. Her sole colonial conviction was in June 1851, just over a

³⁶ HTA 22 June 1854 p.2 col.4-5; CT 22 June 1854 p.3 col.1. No occupation was recorded on her death record: see NSW Death Certificate 1867 No.002254: Mary Ann Patterson.

³⁷ For matching of skills and assigned workers, generally, see Nicholas, 'The Convict Labour Market' in Nicholas (ed.), *Convict Workers*, pp.120-124. See also AOT, CON 41/30 Margaret Foley *Blackfriar* No.486; AOT, LC 247/27 Hobart (20 October 1856, 21 October 1856). By the time of her marriage, in 1857, Margaret Foley's occupation was recorded as housemaid: AOT, RGD 37/16 1857 Oatlands No.778: Foley/Snell.

³⁸ AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795.

³⁹ Oxley, 'Female Convicts', p.95.

year after she married, when she was sentenced to one month's hard labour in the Factory in Hobart for leaving her husband (to whom she was assigned) without permission.⁴⁰ The only occupational information available in Van Diemen's Land for Johanna Walsh was that she was a servant at the time of her marriage in 1851.⁴¹

'On the town'

As Figure 44 depicts, nearly one-fifth of the deliberate arsonists admitted to having been 'on the town' or 'on the streets'.⁴² Williams calculated that 13 per cent of Irish women had been 'on the town', compared to an estimated 20 per cent of all convict women,⁴³ and that over one-fifth (or 20 per cent) of urban women transported from Ireland were 'prostitutes'.⁴⁴ O'Farrell, in his study of the Irish in Australia, accepted uncritically that many of the Irish convict women were prostitutes.⁴⁵

⁴⁰ AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795.

⁴¹ AOT, RGD 37/10 1851 Hamilton No.120: Walsh/White. She was granted a ticket-of-leave on 24 February 1852 and a conditional pardon on 21 June 1853.

⁴² For a discussion of the terminology relating to convict prostitution, see Oxley, 'Female Convicts', p.6.

⁴³ Williams, 'Irish Convicts in Tasmania', p.25 citing L.L. Robson, 'Origin of Women Convicts', *Historical Studies*, Vol.11, No.41, 1963, pp.46-47, 53. But see Reid, 'Work, Sexuality and Resistance', p.54: Reid asserted that Robson's figure of 13% (L. L. Robson, *The Convict Settlers of Australia* Melbourne, 1965, p.77) under-estimates the numbers of prostitutes, because not all women were asked about their prostitution history. See also H.S. Payne, 'A statistical study of female convicts in Tasmania, 1843-53', *THRAPP*, Vol.9, No.2, 1961, p.59: Payne calculated from his small sample that 24% of all convict women were prostitutes. Oxley, 'Female Convicts', p.86, noted that it is not possible to calculate how many of the female convicts had practised prostitution in the United Kingdom and adds that the information was not recorded for convicts to New South Wales.

⁴⁴ Williams, 'Irish Convicts in Tasmania', p.22. See also p.20: the majority were tried in urban areas. Williams found that the highest numbers of women who admitted to having been 'on the town' were from Ulster province: 18% were tried there; 14 % in Leinster; 1% in Connaught; and 9% in Munster.

⁴⁵ Patrick O'Farrell, *The Irish in Australia. 1788 to the Present*, 3rd edition, Sydney, 2000, p.24.

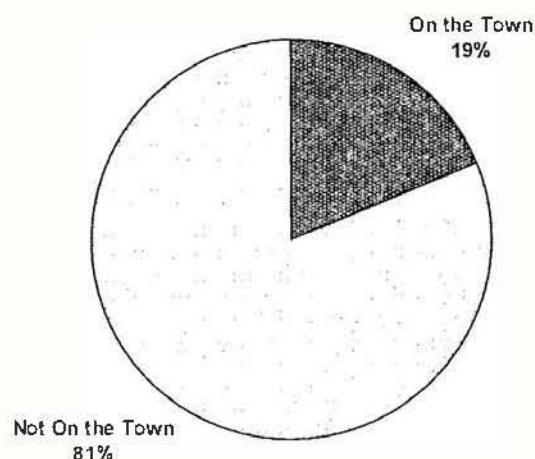


Figure 44: Deliberate arsonists who had been 'on the town' [n=79].

There have been few studies of the extent of prostitution in nineteenth century Ireland.⁴⁶ Cormac Ó Gráda, in his study of Clonmel prison registers between 1845 and 1849, located twenty to thirty women working as prostitutes in the large garrison town in the mid-1840s. They were mostly in their early twenties, Catholic, illiterate and, judging from their surnames, local women. Some were appearing on their twentieth charge, often recorded as breaching the borough by-laws, 'being a nuisance on the town', or 'vagrancy'.⁴⁷

⁴⁶ Oxley, 'Female Convicts', p.86 noted that it is not possible to calculate how many of the female convicts had practised prostitution in the United Kingdom.

⁴⁷ Cormac Ó Gráda, 'The Heights of Clonmel Prisoners 1845-9: Some Dietary Considerations', *Irish Economic Social History*, Vol.18, 1991, p.26. See also Williams, *Ordered to the Island*, p.20: 13% of those who admitted that they were 'on the town' were transported for vagrancy.

For some of the ships bringing arsonists, none of the indents record that the women stated that they had been 'on the town'. It may be that the question was not asked.⁴⁸ The proportion, then, is likely to be higher. Given that prostitution was not an indictable offence, as Robinson and Oxley have pointed out,⁴⁹ it is interesting to consider why the convict women were asked about it and how the information was used. Oxley suggested that prostitution may have been considered evidence of immorality.⁵⁰

As early as 1823, Elizabeth Fry, the Quaker prison reformer, suggested in a letter to Lord Bathurst, the Secretary of State for the Colonies, that the history of each convict should be sent on board each ship to assist the colonial authorities in assessing convicts' character to facilitate their placement. This was forwarded in a despatch to Governor Arthur, with Bathurst's recommendation that it be carried out.⁵¹ Concern with the moral behaviour of convict women, and its potential influence on settler families, was highlighted in the report of the Molesworth Committee in 1837.⁵²

⁴⁸ Reid, 'Work, Sexuality and Resistance', p.54: while 3254 were asked on arrival about previous prostitution, several shiploads – 503 women – were not. No information exists for 47 women who died on route. The 862 known prostitutes therefore make up 26.5% of those quizzed on the subject.

⁴⁹ See Portia Robinson, 'The first forty years' in Judy Mackinolty and Heather Radi (eds.) *In pursuit of justice: Australian women and the law, 1788-1979*, Sydney, 1979, p.5; Oxley, 'Female Convicts', p.85. See also Kay Daniels, 'Prostitution in Tasmania during the transition from penal settlement to 'civilized' society' in Daniels, *So Much Hard Work. Women and Prostitution in Australian History*, Sydney, 1984, p.25.

⁵⁰ Oxley, *Convict Maids*, p.7. See also Daniels, *So Much Hard Work*, p.2 for prostitution as a social construction, 'a synthesis of nineteenth century middle class ideas about women, male and female sexuality, marriage, work and class relations.'

⁵¹ AOT, GO 1/1 Despatch 2, pp.19-20. See also Jennifer Parrott, ' "Wise as a Serpent and Gentle as a Lamb": Elizabeth Fry and the Extension of her Prison Reform Work to the Australian Colonies', unpublished B.A. (Hons.), University of Tasmania 1990, p.75.

⁵² BPP, *House of Commons, Select Committee on Transportation, Report together with Minutes of Evidence, Appendix & Index 1837 & 1838* esp. 1838 Report ix.

However, there is no evidence among the deliberate arsonists that information relating to their periods 'on the town' was used to determine their colonial placement. The recording of information about prostitution, or being 'on the town', highlights the dichotomy between prostitution as a cause of moral concern and as a form of work or survival strategy.⁵³

Prostitution was often temporary and transitional, and linked to survival.⁵⁴ The majority of deliberate arsonists who were 'on the town' appear to have been so for less than two years, a pattern which conforms to conclusions reached by Williams and Reid in their studies of convict women.⁵⁵ Some admitted to periods of six months or less. Mary Kirwin, a twenty-two-year-old country servant, admitted to three months.⁵⁶ Margaret Basley, a twenty-four-year-old laundress, confessed to six months,⁵⁷ as did Celia Kavanagh, an eighteen-year-old nursemaid.⁵⁸

⁵³ For a discussion of prostitution historiography, see Kay Daniels, *So Much Hard Work* pp.4-10; Judith Allen, 'The making of a prostitute proletariat in early twentieth-century New South Wales', in Daniels, *So Much Hard Work*, pp.195-196. See also Michael Sturma, 'Eye of the Beholder: the stereotype of women convicts 1788-1852', *Labour History*, No.34, 1978, pp.3-10. See also Raelene Frances, 'Prostitution', in Graeme Davison, John Hirst and Stuart Macintyre, *The Oxford Companion to Australian History*, Melbourne, 1996.

⁵⁴ See also Deidre Beddoe, *Welsh Convict Women: A study of women transported from Wales to Australia, 1787-1852*, Carmarthen, Wales, 1979, p.37: Beddoe argued that there was a link between destitution and prostitution. For 19th century usage of the term prostitution, see Sturma, 'Eye of the Beholder', pp.3-10.

⁵⁵ Reid, 'Work, Sexuality and Resistance', p.85: Reid found that 43% of women who admitted to having been 'on the town' before transportation had been prostitutes for less than 18 months; another 28% between 18 months and 3 years. Williams, *Ordered to the Island*, pp.19-20: overall, nearly 2/3 had been on the town for less than 2 years and there was a significant increase in the post-famine years as a result of poverty and distress.

⁵⁶ AOT, CON 41/30 and CON 15/7 Mary Kirwin *Blackfriar* 1851 No.426.

⁵⁷ AOT, CON 41/28 and CON 15/6 Margaret Basley *Duke of Cornwall* 1850 No.1073.

⁵⁸ AOT, CON 41/26 and CON 15/6 Celia Kavanagh *Earl Grey* 1850 No.383.

A number of the women, however, confessed to having been 'on the town' for much longer periods of time. Housemaid Bridget Dooling admitted to having been 'on the town' for six years: she was only nineteen when she arrived in Van Diemen's Land, so presumably she started when she was thirteen.⁵⁹ Ann Mahony, tried with Ann Tuohy, stated that she had been twelve months 'on the town'. A twenty-four-year-old housemaid, single and illiterate, her only living relative recorded on her indent was her father.⁶⁰ Anne Tuohy, a twenty-two-year-old country servant, single, illiterate and from Limerick, had been 'on the town' eighteen months. She also stated that she committed her offence – setting fire to a house near Limerick – in order to be transported, adding that she was drunk at the time.⁶¹

The average age of those who stated they had been 'on the town' was 20.5 years. Williams found that over half of those who admitted to having been 'on the town' were aged between twenty and twenty-four.⁶² Some of the deliberate offenders, like Bridget Dooling, were younger than this. One of the youngest to admit to having been 'on the town' was Cork country servant Susan Chickley, whose age was recorded as sixteen on her convict records. An orphan with one brother and one sister in County Cork, she said that she had been 'on the town' for two years.⁶³ Eighteen-

⁵⁹ AOT, CON 41/24 and CON 15/6 Bridget Dooling *Australasia* 1849 No.682.

⁶⁰ AOT, CON 41/12 and CON 15/4 Anne Mahony *Arabian* No.739.

⁶¹ AOT, CON 41/12 and CON 15/4 Ann Tuohy *Arabian* No.286.

⁶² Williams, *Ordered to the Island*, p.20.

⁶³ AOT, CON 41/24 and CON 15/6 Susan Chickley *Australasia* 1849 No.1007.

year-old Jane Allen, a housemaid, admitted to having been on the town for three years (that is, since the age of fifteen).⁶⁴

In the case of the deliberate arsonists, the link between destitution and prostitution is circumstantial. There is, however, strong evidence to suggest that the link did exist. Many of the women had few living relatives or were orphans, and so were economically vulnerable. Eliza Guilfoyle, a nineteen-year-old nursemaid, admitted to having been 'on the town' for two months. According to her indent, she had no relations.⁶⁵ Maria Collister, a twenty-year-old housemaid, also admitted to having been 'on the town' for two years. Although she had one brother and one sister, her parents were not living.⁶⁶ Among the wider group of arsonists, at least two widows admitted to having been 'on the town'.⁶⁷ Again, this pattern conforms to other studies.⁶⁸

The occupational backgrounds of the deliberate arsonists who admitted to having been 'on the town' varied. Five were housemaids,⁶⁹ and four were country servants.⁷⁰

⁶⁴ AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272.

⁶⁵ AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518.

⁶⁶ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077.

⁶⁷ On the *John Calvin* in 1848, 2 widows admitted to having been 'on the town'. See AOT, CON 41/16 and CON 15/4 Rose Murray *John Calvin* 1848 No.842, a 24-year-old widow from King's County but tried in Kildare, she admitted to 2 years 'on the town.' See also AOT, CON 41/16 and CON 15/4 Julia Walsh *John Calvin* 1848 No.729: a 23-year-old widowed housemaid, she had been 'on the town' 4 months.

⁶⁸ Williams, *Ordered to the Island*, p.20: 3% were married. See also Reid, 'Work, Sexuality and Resistance', p.54: a high proportion of single women (22.7%) had been 'on the town'. Of these, 87% were single; 3% were widowed. Many of the married women were separated from their husbands.

⁶⁹ AOT, CON 41/12 and CON 15/4 Anne Mahony *Arabian* No.739; AOT, CON 41/24 and CON 15/6 Bridget Dooling *Australasia* 1849 No.682; AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077; AOT, CON 41/30 and CON 15/7 Jane Allen *Blackfriar* 1851 No.272.

Two were nursemaids, and one was a child's maid.⁷¹ Two were laundresses.⁷²

Williams also looked at the occupational background of those who were 'on the town', suggesting that fewer country servants became prostitutes.⁷³

There is no evidence to suggest that those deliberate arsonists who admitted to having been 'on the town' before they were transported continued the practice in Van Diemen's Land.⁷⁴ Perhaps this is an indication that it was an economic strategy not needed in Van Diemen's Land, as economic circumstances were better than in post-Famine Ireland. If so, this might demonstrate that at least some of the deliberate arsonists achieved their aim of bettering their economic circumstance. As Daniels pointed out, however, few women who worked as prostitutes speak in official records and when they do so it is seldom of their own choosing.⁷⁵

One deliberate arsonist to be labelled a prostitute after she had served her sentence was Mary Hennessey, who in 1859, was charged with being 'an idle and disorderly

⁷⁰ AOT, CON 41/12 and CON 15/4 Ann Tuohy *Arabian* No.286; AOT, CON 41/30 and CON 15/7 Mary Kirwin *Blackfriar* 1851 No.426; AOT, CON 41/24 and CON 15/6 Susan Chickley *Australasia* 1849 No.1007.

⁷¹ AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, CON 41/26 and CON 15/6 Celia Kavanagh *Earl Grey* 1850 No.383.

⁷² AOT, CON 41/33 and CON 15/7 Mary A. Williams *John William Dare* 1852 No.950; AOT, CON 41/28 and CON 15/6 Margaret Basley *Duke of Cornwall* 1850 No.1073.

⁷³ Williams, *Ordered to the Island*, p.18: only 7% of country servants had been 'on the town' compared to 17% of housemaids, 10% of laundresses, and 12% of women with miscellaneous occupations. But cf p.20 where Williams stated that 22% of those who admitted to having been 'on the town' had been employed as country servants.

⁷⁴ cf. Robson, *Convict Settlers*, p.134: 'some of the female felons continued to lead immoral lives' with 1 in 8 punished in the colony for misconduct related to sexual behaviour. Payne, 'female convicts' p.59, p.62: only 3% were charged with prostitution offences in the colony. See also Robinson, 'The First Forty Years', p.7.

⁷⁵ Daniels, *So Much Hard Work*, p.5.

person, in being a common prostitute wandering the Street in Hobart Town' at night.⁷⁶ She did not admit to the offence, but two witnesses testified otherwise. The police constable who brought her before the court stated:

I was on duty in Macquarie Street in Hobart Town between nine and ten o'clock last night and saw the Defendant standing there. I saw her stop several men there saying to them, "come here my dear". I cautioned her and told her that if she did not go home I should lock her up. About 10 minutes after that I again saw her in company with a man whom she was pulling about in a very indecent manner. She asked him for five shillings for his having connexion with her. She made use of very indecent expressions. I have known her about 18 months. She is a common prostitute and she has been convicted here before on a similar charge to this.⁷⁷

Another witness claimed:

I know the Defendant. She is a common prostitute. I have known her to be frequenting the streets for the last 18 months. She has been convicted before on a similar charge to this.⁷⁸

Hennessy, in her defence, claimed:

It is all lies. I have been at service and only came out to see after a dress I was getting made. I got drunk and that's all.⁷⁹

She was sentenced to three months' imprisonment with hard labour.⁸⁰ Mary had previously been charged with being drunk and absconding but not with being a common prostitute.⁸¹ While under sentence, she had been punished for drunkenness, being absent, absconding and being in the bush with a man.⁸² In 1854, she had one unsuccessful application for permission to marry.⁸³ In 1857, she had an illegitimate

⁷⁶ AOT, LC 247/28 (16 July 1859). There is no evidence that she was 'on the town' in Ireland.

⁷⁷ AOT, LC 247/28 (16 July 1859): evidence of Patrick Carey, a constable in the City Police. The previous charge had been for being drunk and absconding.

⁷⁸ AOT, LC 247/28 (16 July 1859): evidence of John McGuire.

⁷⁹ AOT, LC 247/28 (16 July 1859).

⁸⁰ AOT, LC 247/28 (16 July 1859).

⁸¹ AOT, LC 247/28 (10 August 1858).

⁸² AOT, CON 41/35 Mary Hennessy *Martin Luther* No.950 (24 June 1857).

⁸³ AOT, CON 52/7 p.220: Hennessy/Jenks; AOT, CON 41/35 Mary Hennessy *Martin Luther* No.950 (24 June 1857).

child in the Female Factory.⁸⁴ At her court appearance in August 1858, she was described as 'Mary Birch' and it seems that about this time she formed a relationship with William Birch. She had two children to him: a son in 1863 and a daughter in 1866.⁸⁵ A year later, Mary died in hospital of 'phthisis pulmonalis' or tuberculosis.⁸⁶ Little more is known of her personal circumstances. Her case highlights the difficulties associated with women labelled as 'prostitutes'. It is impossible to say, from the surviving information, whether she was actually a prostitute and, if she was, whether this was from choice, economic necessity or for some other reason. As Oxley stated, the contemporary term prostitute was 'a class-biased label' with moral connotations, rather than an index of working-class poverty or a legitimate occupation.⁸⁷

The stereotype of convict women as prostitutes, with its connotations of immorality, is as inappropriate for the deliberate arsonists as it is for convict women generally.⁸⁸ Numerically, less than one-fifth of the deliberate arsonists on arrival admitted to having been 'on the town' and none appeared to have continued to employ this as an

⁸⁴ The child's birth does not appear to have been registered.

⁸⁵ AOT, RGD 33/8 1863 Hobart No. 6008: Henry William Birch. His mother was recorded as 'Hennesey'; AOT, RGD 33/9 1867 Hobart No.8940: Emma Birch (24 November 1866). Emma's mother was recorded as 'Innes'. See also AOT, Legislative Council Paper No.47/1871 p.38: *Return of Persons who were in receipt of public funds on 1 December 1870*. In 1870, Emma Birch was granted weekly aid of 2/6 because her mother was dead and her father was a pauper in the Cascades Invalid Depot, suffering from impaired vision. In 1877, she was admitted to the Queen's Orphan School. Her mother was recorded as 'Mary Hennesy Martin Luther (dead)'.

⁸⁶ AOT, HSD 145; AOT, RGD 35/7 1868 Hobart No.7093: Mary 'Burch' (19 December 1867).

⁸⁷ Oxley, 'Female Convicts', pp.86-87.

⁸⁸ Oxley, 'Female Convicts', p.86.

economic strategy in the colony. Only one was labelled a prostitute, and she denied the charge.

Other survival strategies

Apart from being 'on the town', there were other strategies for surviving economically. One of these was pledging, or pawning goods. Langan-Egan's study concluded that, despite the poverty of clothing supplies in Mayo, clothes were used as pledges in pawnbroker's shops. Clothes were frequently pawned in spring and early summer and redeemed after the harvest. She also stated that it was not uncommon for parties on the way to the workhouse to leave their best clothes with the pawnbroker, because they believed that they were safer there.⁸⁹ William Nolan, examining the politics and economies of hunger in Tipperary in 1848, drew on evidence from a local curate who wrote that 'the poor were impoverished, so that a continual necessity for borrowing is kept up while at the same time the pawnbrokers shops are full of the clothes of these class'.⁹⁰ Pledging goods that belonged to another was a transportable offence. Oxley calculated that only 1 per cent of Irish women were transported for pledging goods, whereas 5 per cent of English women were transported for the same offence. She attributed this to the access of English women in urban areas to pawnshops.⁹¹ According to Reid, in England's urban areas, short-term pledging of an employer's property was a common practice.⁹² Deliberate

⁸⁹ Maureen Langan-Egan, 'Women in Mayo, 1821-1851', M.Ed., National University of Ireland, Galway, 1986, p.22.

⁹⁰ William Nolan, 'The 1848 Rising & Its Tipperary Background', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.75.

⁹¹ Oxley, *Convict Maids*, pp.70, 74.

⁹² Reid, 'Work, Sexuality and Resistance', p.74.

arsonist Bridget Delaney, tried in Carlow in 1849, served twelve months for pledging corduroy.⁹³ Eighteen-year-old Mary Hickey admitted to a previous conviction for pawning clothes for which she received three months in prison.⁹⁴

The tradition of pawning goods continued in colonial Australia, and was an intrinsic part of the domestic economy.⁹⁵ In 1867, Alice Julian, who had married emancipist Alfred Walker in 1853, appears to have been struggling economically. When she was tried that year, with having 'feloniously uttered a counterfeit coin of the realm, with intent to defraud', it emerged that she was employing a number of strategies, legal and illegal, to make ends meet. She passed a small gilt medal as a sovereign⁹⁶ in the Caledonia Inn and later that day sent her daughter back with a similar medal. On both occasions, the publican's wife gave change. When confronted by the publican and a police constable with passing counterfeit coins, Alice offered to give back the money: she had twelve shillings and borrowed the remaining eight from the baker or his wife. At her trial, she stated that she had used the change that she had received from the publican's wife to purchase meat, and a child's dress, and to release a ring from pawn.⁹⁷ Clearly, Alice Julian was utilizing pawning as an economic survival strategy.

⁹³ AOT, CON 41/26 and CON 15/6 Bridget Delaney *Earl Grey* 1850 No.694. At least five arsonists overall had previous convictions for pledging or pawning items of clothing.

⁹⁴ AOT, CON 41/20 and CON 15/5 Mary Hickey *Lord Auckland* (3) 1849 No.740.

⁹⁵ There has been no major study of the practice in Tasmania. For the role of the pawnshop in domestic economy in late 19th century NSW, see Anne O'Brien, *Poverty's Prison: The Poor in New South Wales 1880-1918*, Melbourne, 1988, p.24. See also Melanie Tebbutt, *Making Ends Meet. Pawnbroking and Working-Class Credit*, London, 1984.

⁹⁶ A sovereign was an English gold coin worth £1.

⁹⁷ *The Mercury* 3 April 1867 p.2 col.5, p.3 cols.3-4; 10 May 1867 p.2 col.6; 3 July 1867 p.3 cols.2-3.

The deliberate arsonists were part of the unskilled working classes. In colonial Van Diemen's Land, they were particularly vulnerable to shifts in the economy and, consequently, were forced to rely on a number of strategies in order to survive. Their colonial work was determined not only by the skills they brought with them and the demand for labour but also by the constraints of the penal system.

The colonial work of the arsonists falls into two phases: work under sentence and work 'on their own hands'. Increasingly, historians have begun to redress the neglect of female convict labour as a topic of historical inquiry, although this has primarily been for the period before 1840.⁹⁸ While the occupational skills of convict women on arrival have been progressively the focus of historians, their work once free has been largely ignored.⁹⁹ To a large extent, this is because of the nature of the records: few sources mention either work done by convict women under assignment or by

⁹⁸ For a summary of the trends in the historiographical debate about female convict labour, see Reid, 'Work, Sexuality and Resistance', pp.151-158. See also Oxley, *Convict Maids*; Oxley, 'Female Convicts'; Deborah Oxley, 'Representing convict women', in Ian Duffield and James Bradley (eds.), *Representing Convicts. New Perspectives on Convict Forced Labour Migration*, London, 1997, pp.88-105; Kirsty Reid, '“Contumacious, Ungovernable and Incurable”: Convict Women and Workplace Resistance, Van Diemen's Land, 1820-1839' in Duffield and Bradley (eds.), *Representing Convicts*, pp.106-123; Kirsty Reid, 'Setting Women to Work. The Assignment System and Female Convict Labour in Van Diemen's Land, 1820-1839', *Australian Historical Studies*, No.121 April 2003, pp.1-25; Kristine McCabe, 'Discipline and Punishment: Female Convict on the Hunter River, 1830-1840'. "What can we do with her?"', *Journal of Australian Colonial History*, Vol.1, No.1, 1999, pp.38-61; Kristine McCabe, 'Assignment of Female Convicts on the Hunter River, 1831-1840', *Australian Historical Studies*, Vol.30, No.113, October 1999, pp.286-302. See also David Kent and Norma Townsend, 'Deborah Oxley's "Female Convicts": An Accurate View of Working-Class Women?', *Labour History*, No.65, November 1993 pp.179-191; and Deborah Oxley, 'Exercising Agency', *Labour History*, No.65, November 1993, pp.192-199.

⁹⁹ For entrepreneurial convict women, see Kay Daniels, *Convict Women*, St Leonards, NSW, 1998 and Alexander, 'The Public Role of Women'. See also D.M. Snowden, 'Women and Work in Van Diemen's Land, 1803-1856: An Overview', unpublished B.A. (Hons.) Thesis, University of Tasmania, 1982.

emancipated convict women, and often it seems to be assumed that once they were married their occupation was 'wife'. Aveling, for example, claimed that 'there is no reason to suppose that the women ... expected anything more in their lives than cohabitation or marriage'.¹⁰⁰ Although some information about occupations can be gleaned from civil registration records, and applications for public assistance, the deliberate arsonists' work, like that of convict women generally, was often invisible to contemporary commentators and modern historians alike.¹⁰¹

Work, paid and unpaid, was an intrinsic part of the life experience of the deliberate arsonists. Work was crucial to reform. The stages of punishment and freedom were predicated on work. Newly-arrived convicts were supposed to labour in the third-class gang until they earned promotion to less demanding work through good behaviour.¹⁰² A ticket-of-leave, an incentive for good behaviour and hard work, allowed a convict to go 'on her own hands', but she remained a convict and was kept under scrutiny: it was 'a neat marriage of incentive and threat'.¹⁰³ The final stage of punishment and reform was an absolute pardon: while none of the deliberate arsonists received this, at least forty-seven – just over sixty-two per cent – were granted conditional pardons. This determined the areas where they were free to go, and usually stipulated that they were not to return to Great Britain or Ireland. At least

¹⁰⁰ Marian Aveling, 'Bending the Bars: Convict Women and the State' in Kay Saunders and Raymond Evans (eds.), *Gender Relations in Australia: Domination and Negotiation*, Sydney, 1992, p.147.

¹⁰¹ An exception is Reid's detailed doctoral study.

¹⁰² BPP, *Correspondence between the Secretary of State and the Governor of Van Diemen's Land on the Subject of Convict Discipline*, 1845. 659, Vol. XXXVII, p.14.

¹⁰³ Stephen Nicholas, 'Public Employment and Assignment to Private Masters, 1788-1821' in Nicholas (ed.), *Convict Workers*, p.130.

six of the deliberate arsonists also went to the trouble of obtaining a Free Certificate, or Certificate of Freedom, official recognition that they were free by servitude.

The Probation System

Patterns of work were formed during the period of convict employment. The arsonists arrived during the third phase of female transportation, the period of probation and incarceration, which lasted from 1843 to 1853.¹⁰⁴ Within this decade, there were three distinct stages: from 1843–1847, from 1848–1850, and from 1850–1853.¹⁰⁵ As in the earlier phases, work was not only a form of punishment but was also considered intrinsic to reformation.¹⁰⁶ While female convicts brought useful and sought-after skills with them, they were also trained for ‘industrial domesticity’¹⁰⁷ during the voyage under the supervision of a matron. On board ship, the female convict was taught domestic skills such as sewing, cleaning and obedience, as well as undertaking regular scripture study and literacy. The overall purpose of the probation

¹⁰⁴ For an explanation of the 3 phases of female transportation to Van Diemen’s Land, see Lyndall Ryan, ‘The Governed: Convict Women in Tasmania 1803–1853’, *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.3, No.1, 1990–1991, pp.37–51; and Lyndall Ryan, ‘From Stridency to Silence: The policing of convict women, 1803–1853’ in Diane Kirkby (ed.), *Sex power and justice: historical perspectives of law in Australia*, Melbourne, 1995, pp.70–85. See also Ian Brand, *The Convict Probation System: Van Diemen’s Land, 1839–1854*, Hobart, 1990. See also BPP, *Correspondence between the Governor and the Secretary of State on the Subject of Convict Discipline*, 1846, 36, Vol. XXIX; and BPP ‘Regulations for the Religious and Moral instruction of Convicts in Van Diemen’s Land’, Convict Department, 1st December 1843, *Correspondence between the Secretary of State and the Governor of Van Diemen’s Land on the Subject of Convict Discipline*, 1845, 78, Vol. XXXV, pp. 21–22.

¹⁰⁵ For details, see Ryan, ‘The Governed’, pp.46–50. See also AOT, GO 25/11, pp.15–19, Sir John Eardley-Wilmot to Lord Stanley, 2 November 1843; G.R. Lennox, ‘A Private and Confidential Despatch of Eardley-Wilmot: Implications, Comparisons and Associations Concerning the Probation System for Convict Women’, *THRAPP*, Vol.29, No.2, June 1982, pp.80–92, Ian Brand, ‘Charles Joseph Latrobe and the Van Diemen’s Land Probation System’, *Bulletin of the Centre for Tasmanian Historical Studies*, Vol. 2, No. 1, 1988, pp.49–67.

¹⁰⁶ BPP, *Transportation*, Vol.7 p.38: Franklin to Russell 9 July 1841 ‘The great object of the probation system was to influence the mind and to make punishment certain and equal in its effects’.

¹⁰⁷ Ryan, ‘The Governed’, p.47.

system was to mould an industrious and compliant workforce which could be hired out to the private sector. Obedience, docility and quietness were seen as desirable attributes in a colonial domestic servant. The fact that it was believed to be necessary to train the women in these qualities implies that they were something that not only could but needed to be learned. A colonial visitor to the *Anson* in 1844 commented:

We remarked with great satisfaction the subdued, respectful, and throughout proper deportment of the moment exhibiting a very striking contrast with what we have been too long accustomed to in similar establishments in this country.¹⁰⁸

Reid argued that convict women, under the assignment system, recognised that their power was work-based, and this allowed them to manoeuvre within the system, exercising their right of choice over a variety of issues.¹⁰⁹ Obedience, docility and quietness – the hallmarks of the probation system – were the antithesis of this demonstration of agency.

For female convicts under the probation system, the system of control was tighter than under the assignment system and the women were confined for longer periods before being able to undertake paid work. Newly-arriving convicts were separated as much as possible from earlier arrivals. The women, in theory, were subject to more constraints and less able to control their circumstances than previously. There were five stages of punishment and rehabilitation, and work-related discipline was a crucial part of each.¹¹⁰ Regulations within these stages changed during the period that the

¹⁰⁸ *HTC* 29 October 1844 p.2 col.4.

¹⁰⁹ Reid, 'Work, Sexuality and Resistance', p.273.

¹¹⁰ Ryan, 'The Governed', pp.46-50. See also *BPP, Transportation*, Vol.7, p.38: Franklin to Russell 9 July 1841.

probation system operated.¹¹¹ During the first stage, from 1843–1847, the female convicts were sent on arrival to the *Anson*, a penitentiary housed in a converted naval ship moored in the River Derwent, for a six-month training period in domestic skills. This incorporated a daily routine of early rising, sweeping, cleaning, sewing and scripture reading.¹¹² At the end of six months, the women were eligible to become probation passholders and were sent to the Female Hiring Depots to be engaged in private or government employment, usually as domestic servants. During the first year, the convict woman was entitled to half her wages; the other half was paid by her employer into a savings bank, for reclamation when she was granted a ticket-of-leave, usually after three years for a seven-year sentence. The probation pass was linked to conduct and could be revoked for serious breaches. The woman was then sent to a House of Correction for a period of ‘punishment, employment and reformation’. A ticket-of-leave was granted at the satisfactory completion of the probation passholder stage. This was followed by the final stage, the granting of a pardon, either conditional or absolute.¹¹³

Increasing numbers of convict women arriving in Van Diemen’s Land, and the depressed local economy reduced the demand for domestic labour and consequently the women’s bargaining power. By 1846, more women were housed on the *Anson*, in

¹¹¹ Brand, *The Convict Probation System*, pp.227-251.

¹¹² Brand, *The Convict Probation System*, pp.103-105. See also Lennox, ‘A Private and Confidential Despatch’, pp.84-86. The *Anson* establishment was moved from Risdon to Hobart in July 1849; it operated on a smaller scale until the following year: Lennox, ‘A Private and Confidential Despatch’, pp.88-89.

¹¹³ Brand, *The Convict Probation System*, pp.103-105; AOT, GO 1/48 p.165 Secretary of State Stanley to Lt. Governor Franklin, 25 November 1842 No.175.

the Hiring Depots and in the Female Houses of Correction than were in domestic employment.¹¹⁴

In the second stage of probation, from 1848–1850, convict women were sent directly to the Houses of Correction in Hobart and Launceston to serve their six months probation in separate cells. In mid-1850, a temporary reception station was formed at the New Town Farm for newly-arriving convict women. They were then hired for twelve months, during which time their employment could be terminated by their employer or by the women themselves. Each year of continuous service reduced the period they would have otherwise served for a ticket-of-leave.¹¹⁵ Following this, they were sent to the hiring depots at Launceston and Brickfields at New Town in order to be placed in private or government employment. Improvements to the economy increased the demand for female labour. At this time, too, the Ross Female Factory was established as a place of punishment.¹¹⁶

In the third period, from 1850–1853, significant changes were introduced. The women served six months in a penitentiary before embarking, but on arrival in Van

¹¹⁴ Brand, *The Convict Probation System*, p.210; Ryan, 'The Governed', p.82: for a first-hand account, see Lieutenant Colonel G.C. Mundy, *Our Antipodes, or, Residences and Rambles in the Australasian Colonies*, 4th edition, London, 1857, p.222.

¹¹⁵ AOT, GO 33/71 p.409 ff: Denison to Grey 25 July 1850; Lennox, 'A Private and Confidential Despatch', p.89.

¹¹⁶ Eleanor Conlin Casella, 'Archaeology of the Ross Female Factory: Female Incarceration in Van Diemen's Land, Australia. Report prepared for the Cultural Heritage Branch (DPIWE, Tasmania), the Queen Victoria Museum and Art Gallery and the Tasmanian Wool Centre of Ross', *Records of the Queen Victoria Museum*, No.108, 2002, pp.32-33.

Diemen's Land, they were immediately available for private employment.¹¹⁷ After the *Anson* closed, a temporary station was formed at New Town Farm for the reception of female convicts to the colony, in order that they might be kept separate from the old class.¹¹⁸

Little information is available about the lives of individual arsonists on the *Anson*. The only specific reference located was on the conduct record of Ann Daley. Not long after arrival, while aboard the *Anson*, on 16 November 1849, she was given seven days in the cells for refusing to attend the teaching of the Roman Catholic catechism.¹¹⁹ For the remaining arsonists, it was simply noted that they were on the *Anson*; this was followed by their date of admission to the Third Class as a probation passholder. Contemporary accounts, however, not only reveal the strict moral regime instigated by a contingent of matrons and nurses, but also give some insight into the type of work and training undertaken by those on the *Anson*.¹²⁰ The women were engaged in the 'necessary duties of the establishment' such as washing and cooking, as well as in 'needlework, the manufacture of shoes, straw hats, [and] door mats'.¹²¹ They made clothes, including men's shirts and jackets, women's day caps, shoes and stockings, as well as undertaking washing for government establishments and,

¹¹⁷ Ryan, 'The Governed', pp.48-49.

¹¹⁸ For an overview of the history of the *Anson*, see Tony Rayner, *female factory, female convicts*, Dover, Tas., 2005, pp.4, 40, 98, 107-108, 109, 112.

¹¹⁹ AOT, CON 41/24 and CON 15/6 Ann Daley *Australasia* 1849 No.677.

¹²⁰ There are striking parallels with the stringent control placed on single female assisted emigrants placed in depots: see Jan Gothard, *Blue China: Single Female Migration to Colonial Australia*, Melbourne, 2001. See also Deborah Oxley, *Convict Maids*, esp. Ch. 7 for similarities in the background, skills, and distribution of convict and free female labour. For work, see Lennox, 'A Private and Confidential Despatch', pp.80-92. See also *HTC* 17 September 1851.

¹²¹ *HTC* 29 October 1844 p.2 col.4.

sometimes, Hobart residents. An insight into daily life on the *Anson* is revealed in the letter of English convict Jane Burrell, who described attending school weekly, and exercising for two hours each day:

we had six Months probation to do ... all sorts of Needlework to do we had one hundred women in our Ward about thirty of them time servers I had the work to manage and finish ... we went to School one day in the week to learn to write and sum we had exercise twice a day one hour each time ... I could not write at all when we anchored ... we have on a Sunday Service in the morning and prayers in the evening prayers morning and evening the week.¹²²

Under the probation system, the convict women were effectively removed from colonial society for extended periods. Contemporary fear of moral contamination was encapsulated in Rev. Robert Crooke's assertion that convict women were 'vicious, abandoned women [who] always endeavour to bring virtuous females down to their own level'.¹²³ Ryan viewed increased regimentation under the probation system as a 'more determined attempt to control the convict woman's sexuality and to demean her unattached status', adding that most of her transgressions were associated with what was considered unacceptable sexual behaviour.¹²⁴ Her view reflects the deeply-embedded preoccupation of historians, including some feminist historians, with the sexual behaviour of convict women. Yet a brief examination of the transgressions shows that they were not primarily for sexual misconduct but for insolence, neglect, disobedience of orders and being absent without leave.¹²⁵

¹²² Kaye Williams, 'A Convict Letter', *The Mail: Newsletter of The Descendants of Convicts Group*, No.96, July-August 2000, pp.20-23. The letter, written by Jane Burrell on 9 May 1849 on board the *Anson* to her family in England, was discovered in estate papers in Essex. Burrell noted that there were 600 women on board.

¹²³ Robert Crooke, *The Convict: A Fragment of History*, facsimile edition, nd, first published Hobart 1958, p.4.

¹²⁴ Ryan, 'The Governed', p.51.

¹²⁵ See Chapter Seven Figure 47 See also Reid, 'Contumacious, Ungovernable and Incurable', p.109 Table 6.1.

Fear of moral contamination needed to be juxtaposed against the need for female convict labour. Reid examined the structure of the female labour market in Van Diemen's Land and concluded that, 'contrary to the historical consensus', colonial demand for female convict labour was high and frequently outstripped supply.¹²⁶

The Female Factory as a place of hire

The multi-purpose female factory served as an arrival depot and place for women waiting for assignment or reassignment.¹²⁷ In Van Diemen's Land, there were four main female factories: at the Cascades in Hobart, Launceston, George Town and Ross.

In Hobart, the Brickfields Establishment was also used as a Hiring Depot.¹²⁸ It was not a place of punishment: 'The building in the Brickfields ... is not to be used as a Penitentiary, or Factory within the spirit or meaning of the Act, neither as a place of punishment, but merely as a Depot for the accommodation of Female Pass holders awaiting service'.¹²⁹ In 1846, it had accommodation for up to 200 women, waiting to be hired, and employed in needlework and cut-out work.¹³⁰ Several of the deliberate

¹²⁶ Reid, 'Work, Sexuality and Resistance', esp. Chs 5-7.

¹²⁷ See Tony Rayner, *Historical Survey of the Female Factory Historic Site Cascades Hobart, National Parks and Wildlife Service Tasmania Occasional Paper No.3*, April 1981; Rayner, *female factory, female convicts*; Daniels, *Convict Women*, esp. Ch.5; Casella, 'Ross Female Factory', *Records of the Queen Victoria Museum*, No.108, 2002. See also Lennox, 'A Private and Confidential Despatch'.

¹²⁸ Brown, *Poverty*, p.99: Brickfields also operated as a nursery and Immigrant Depot before becoming an Invalid Depot from 1859-1882.

¹²⁹ Patrick Howard, *To Hell or Hobart. A New Insight into Irish Convict History*, Kenthurst, NSW, 1994 paperback edition, p.147.

¹³⁰ Howard, *To Hell or Hobart*, p.147.

arsonists spent time at the Brickfields: Ann Corry, who arrived in 1849, was initially stationed on the *Anson*. In June 1850, she was at Brickfields when she was contracted to Joseph Freeman, New Wharf, Hobart, for twelve months at £8 per annum.¹³¹ In August 1850, she was contracted as a Probation Passholder to Robert William Carns, New Town, for twelve months at £9 per annum and later to James Callon, Murray Street, Hobart, for twelve months at £8 per annum.¹³² In October 1850, she was at the Brickfields when she was severely reprimanded for smoking while employed as night watch.¹³³

In the institutions, including the female factories, the women were chiefly employed washing, picking wool and making clothes.¹³⁴ While assigned, however, the women were employed in domestic service. Domestic service – sewing, cooking, laundering, cleaning – was vital to the colonial economy: ‘there is perhaps nothing which more materially affects the comfort of families throughout the colony’.¹³⁵ Alford argued that the economic value of female convicts as domestic servants has been underestimated, as has the high value of their labour for the government.¹³⁶ In 1849, convict Jane Burrell noted that farm servants were very scarce, and that ‘good

¹³¹ AOT, CON 30/1 p.193: 25 June 1850.

¹³² AOT, CON 30/2 p.124:15 August 1850; CON 30/2 p.77: 29 August 1850.

¹³³ AOT, CON 41/24 Ann Corry *Australasia* 1849 No.1000. In all, 72 women from the *Australasia* were sent to the Brickfields and 19 were sent to the female hiring depot at Ross, 73 miles from Hobart, designed to serve the labour requirements of the Midlands: Howard, *To Hell or Hobart*, p.146.

¹³⁴ AOT CO 280/195/545, Acting. Comptroller-General to Lieutenant. Governor, 1 August 1846. See also Brand, *The Convict Probation System*, p.271.

¹³⁵ Oxley, ‘Exercising Agency’, p.179.

¹³⁶ Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia 1788-1850*, Melbourne, pp.163-164.

servants are prized like gold and a talented woman may get almost any money'.¹³⁷

Wages were higher 'up the Country' and government servants were 'not allowed [to] ask less than nine Pounds'.¹³⁸

The work patterns established while the deliberate arsonists, and convict women generally, were under sentence continued after they were free. It is obvious from lower court records that work-related charges of emancipist and free women were similar to those of women under sentence, and were largely determined by the controls and constraints of the master-servant relationship.¹³⁹ Reid extended Aveling's model of the penal colonies as 'profoundly patriarchal societies where convict women were subjected to two sites of control: state and husband' to include the role of employers.¹⁴⁰ Louisa Meredith commented that free servants were harder to control than convict servants: 'Eight or nine pounds a year are the wages I have always given to the female prisoner-servants at first, raising them afterwards, if deserved. Free women expect much higher terms, are not a whit better, but often

¹³⁷ Williams, 'A Convict Letter', p.20. She was employed as a cook. Earlier accounts of the work of convict women, albeit in NSW, state that women workers were always in excess supply: see, for example, Alford, *Production or Reproduction*, pp.78-80, 161-164; Annette Salt, *These Outcast Women: The Parramatta Female Factory 1821-1848*, Sydney, 1984, p.87; Monica Perrott, *A Tolerable Good Success. Economic Opportunities for Women in New South Wales 1788-1830*, Sydney, 1983, pp.28-43.

¹³⁸ Williams, 'A Convict Letter', p.20.

¹³⁹ See, for example, AOT, LC 251/1-2, *passim*. See A.P. Davidson, 'An Analytical and Comparative History of Master and Servant Legislation in Tasmania', unpublished LL.M. Thesis, University of Tasmania, 1976. For servants in court, see B.W. Higman, *Domestic Service in Australia*, Melbourne, 2002, pp.251-259. See also David Kent 'Customary Behaviour Transported: A Note on the Parramatta Female Factory Riot of 1827', *Journal of Australian Studies*, Vol.40, 1994, pp.75-79. Kent placed the Parramatta riot in the British tradition of food rioting.

¹⁴⁰ Reid, 'Work, Sexuality and Resistance', pp.152-153. See also Aveling, 'Bending the Bars', p.147.

worse than the prisoners, and are under less control'.¹⁴¹ The deliberate arsonists, like Irish convict women generally, were subjected to the prejudice of some colonial employers: in 1853, Governor Denison noted that 'nearly all the employers of labour ... are Protestants, [and] the interference of the Priests with their servants is felt to be both annoying and inconvenient'.¹⁴² Denison also commented that there must be a pressing demand for labour 'when Irish convicts against whom strong prejudices are usually held ... find ready hirers'.¹⁴³ Employers complained about the lack of skills and ignorance of Irish rural women and their unsuitability for domestic service.¹⁴⁴ The fitness of employers also varied, a fact acknowledged by the authorities as early as 1839: 'The worst criminal may have the best master, and the most repentant may be driven into fresh offences by the oppression of which he is the victim, and the profligacy of which he is the witness'.¹⁴⁵ Not surprisingly, many of the colonial offences of the deliberate arsonists were work-based. This is discussed more fully in the following chapter.

One way of gaining some idea of the occupations of the deliberate arsonists is to examine their stated occupations at marriage. This may also indicate how they perceived their employment.

¹⁴¹ Mrs Charles Meredith, *My Home in Tasmania, during a residence of nine years*, 2 vols, 1852, London, 1852, pp.209-210.

¹⁴² AOT, GO 33/78 Denison to Pakington, 1 April 1853.

¹⁴³ AOT, GO 33/78 Denison to Newcastle, 30 April 1853.

¹⁴⁴ Williams, 'Irish Convicts in Tasmania', pp.28-29.

¹⁴⁵ BPP, Papers Relating to Transportation and Assignment of Convicts, 1839, XXXVIII, C582. Lord John Russell, 'Note on Transportation and Secondary Punishment', 2 January 1839; Nicholas, 'Public Employment', pp.127-151.

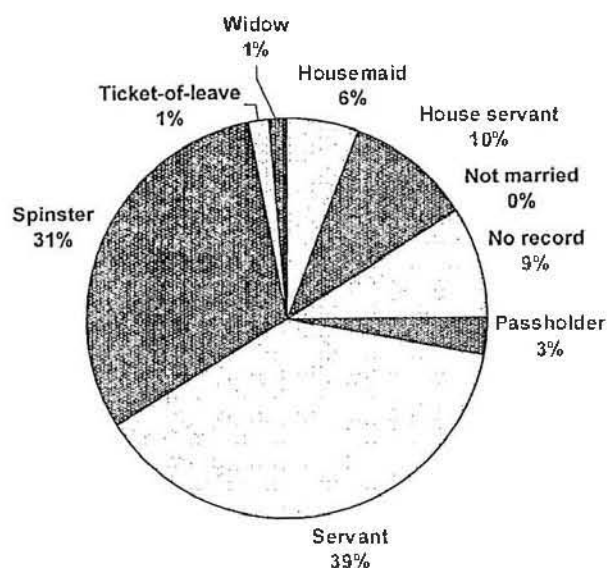


Figure 45: Occupation of deliberate arsonists at marriage [n=68].

As can be seen in Figure 45, not all of the women stated their occupation when they married. Some, like Elizabeth Coghlan, simply described their marital status.¹⁴⁶ Others gave their civil status: Ann Mahoney, for example, stated that she was a 'pass-holder', as did Maria Collister and Eliza Jones.¹⁴⁷ Catherine Fitzgerald's occupation was simply 'T.L', for ticket-of-leave.¹⁴⁸ Mary Paid and Margaret Behan were servants and passholders.¹⁴⁹ The majority of the deliberate arsonists – 55 per cent – were servants of some sort when they married. The largest group comprised

¹⁴⁶ AOT, RGD 37/13 1854 Hobart No.305: Coghlan/Hilsley (20 February 1854).

¹⁴⁷ AOT, RGD 37/12 1853 Longford No.1242: Mahoney/Bishop (2 March 1853); AOT, RGD 37/11 1852 Launceston No.1037: Collister/Kirkpatrick (19 April 1852); AOT, RGD 37/10 No.964: Jones/Smith (27 August 1851).

¹⁴⁸ AOT, RGD 37/16 1857 Longford No.741: Fitzgerald/Jarrett (18 February 1857).

¹⁴⁹ AOT, RGD 37/11 1852 New Norfolk No.1176: Peard/Cleary (15 January 1852); AOT, RGD 37/12 1853 Morven No.1278: Behan/Holland (4 April 1853).

servants (39 per cent), followed by house servants (10 per cent) and housemaids (6 per cent).

By the time the deliberate arsonists died, their recorded occupations were marginally more varied, but women were rarely allocated occupations on their death records. Celia Hurley's occupation was described as a 'gate keeper on Victorian railways'.¹⁵⁰ Elizabeth Coghlan, who died in hospital after thirteen years in Van Diemen's Land, was recorded as a servant.¹⁵¹ Even though she was eighty-three, Mary (Sullivan) Thickers was described as a servant when she died in the New Town Charitable Institution in 1906.¹⁵² Mary Nolan, who also died in an institution, was simply described as a pauper.¹⁵³

Some of the women were simply described by their civil status: Jane Williams, who died soon after her arrival in the colony, was recorded as 'G.E.', presumably for government employee.¹⁵⁴ Typically, many of the arsonists were described by their husband's occupation: Ann (Tuohy) White was recorded as a labourer's wife, as was Ellen (Farrell) Watson.¹⁵⁵ Mary (Murphy) Blay was described as a dealer's wife, perhaps euphemistically as her husband was noted executioner Solomon Blay.¹⁵⁶ Few of these descriptions provide much information about the work of the women.

¹⁵⁰ Victorian Death Certificate 1894 No.3784: Celia Hurley.

¹⁵¹ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* Ellerslie (2 November 1864).

¹⁵² Tasmania Death Certificate: 1906 Hobart No.0440 Mary Ann Thickers.

¹⁵³ AOT, RGD 35/41 1872 New Norfolk No.337: Mary Nowlan (19 September 1872).

¹⁵⁴ AOT, RGD 34/2 1850 No.1868: Jane Williams (3 June 1850).

¹⁵⁵ AOT, RGD 35/26 1857 Launceston No.433: Ann White (25 November 1857); AOT, RGD 35/48 1879 Oatlands No.486: Ellen Watson (6 September 1879).

¹⁵⁶ AOT, RGD 35/10 1884 Hobart No.1736: Mary Blay (17 July 1884).

Catherine Sweney Hollington was stated to be an innkeeper's wife.¹⁵⁷ As an innkeeper's wife, it is likely that she played a significant part in the running of the hotel.¹⁵⁸ There is no evidence, however, to confirm this theory.¹⁵⁹

Alice Julian, a young dairymaid when she arrived, gave no occupation when she married, but was later acknowledged as the family breadwinner.¹⁶⁰ After she moved to Victoria, she worked as a nurse and midwife, and ran a lying-in hospital for eighteen years (1888-1906) in various locations in Melbourne. In 1891, she may have been Lady Superintendent of the Convalescent Home for Women at Clayton.¹⁶¹ As mentioned earlier, her husband, Alfred Walker, had a variety of occupations: labourer; policeman; constable; and carrier.¹⁶² In Melbourne, he was a publican at the 'Adam & Eve' hotel, at 119 Little Collins Street. His trade at the time of his trial was venetian blind maker: the only other time it appeared was on his death certificate.¹⁶³

¹⁵⁷ AOT, RGD 35/47 1878 Launceston No.381: Catherine Sweney Hollington (5 December 1878).

¹⁵⁸ For the role of women in hotel-keeping, see Clare Wright, *Beyond the Ladies Lounge: Australia's Female Publicans*, Melbourne, 2003.

¹⁵⁹ See, however, Alexander, 'The Public Role of Women'.

¹⁶⁰ Gordon Roberts, *personal communication*, 15 July 1998; Maree Holden, *personal communication*, 22 September 2001.

¹⁶¹ Gordon Roberts, *personal communication*, 15 July 1998; Maree Holden, *personal communication* 22 September 2001. In 1888, Alice was a nurse in Lygon Street; in 1891, a midwife in Queen's Street; in 1892, she had a boarding house in King Street; and in 1898, she was a nurse in Provost Street.

¹⁶² AOT, RGD 33/6 1856 Hobart No.861: Sarah Walker (18 December 1855); AOT, RGD 33/7 1857 Hobart No.831: female Walker (29 August 1857); AOT, RGD 33/7 1859 Hobart No.2854: Thomas Alfred Walker (28 September 1859); AOT, RGD 33/41 1863 Longford No.935: Catherine Walker (30 July 1863); AOT, RGD 33/9 1866 Hobart No.8270: Rosalie Walker (20 December 1865); AOT, RGD 33/9 1867 Hobart No.9569: Amelia Walker (8 October 1867); Victorian Birth Certificate 1873 No.1541: Beatrice Walker.

¹⁶³ Victorian Death Certificate 1902 No.5176: Alfd. Walker.

In colonial Tasmania, many women were forced by circumstance into the role of breadwinner. There was little choice of occupation; most were menial and ill-paid. This was common to all poor colonial women, not just convict women.¹⁶⁴ Writing of the poor in New South Wales, O'Brien commented:

The mother who was forced into the role of breadwinner was forced into occupations which were the most menial and ill-paid. She spent long hours doing arduous, heavy work. She was performing traditional female tasks within the home: sewing, cleaning, washing, minding children and keeping house, but she was doing it for others and was paid the merest pittance. The poorest women were left to pick up the dregs of work. Those without assistance from their extended family constituted one of the most vulnerable groups in the community. Their daily battle against destitution was unremitting.¹⁶⁵

For the most part, impoverished colonial women were forced to take work which no one else would do, work which was limited and poorly paid. Those who had children to care for were often limited to outwork,¹⁶⁶ cleaning and washing, jobs characterised by long hours and low pay.

The economic vulnerability of women was increased when families were young. Without an economically stable extended family or network, a woman with children had limited options. She could keep her children with her and try to support them by taking in washing, sewing, letting rooms, cleaning, or minding neighbours' children.¹⁶⁷ Additional aid, usually in the form of rations or rental assistance, was

¹⁶⁴ For an overview of the work of colonial women generally, see Edna Ryan and Ann Conlon, *Gentle Invaders: Australian Women at Work 1788-1974*, Melbourne 1975; Beverly Kingston, *My Wife, My Daughter and Poor Mary Ann. Women and Work in Australia*, Melbourne, 1975; Margaret Bevege, Margaret James and Carmel Shute (eds.), *Worth Her Salt: Women at Work in Australia*, Sydney, 1982.

¹⁶⁵ O'Brien, *Poverty's Prison*, p.100.

¹⁶⁶ Outwork is work done outside a shop or factory.

¹⁶⁷ O'Brien, *Poverty's Prison*, pp.92-93.

sometimes available from charitable organisations, but this often depended on a moral assessment. Another option was to have her children placed in care.

The difficulty in finding work, especially when there were young children to care for, and the various strategies employed to survive economically, are illustrated by the case of deliberate arsonist Alice or Allie Griffith who arrived in 1852, as a twenty-year-old nursemaid.¹⁶⁸ She married convict labourer William Ryan in 1854.¹⁶⁹ Ryan was freed by servitude in 1855,¹⁷⁰ and Griffith received her Certificate of Freedom in Hobart in 1858.¹⁷¹ Six months later, two Ryan children, Thomas and David, were admitted to the Orphan School.¹⁷² Griffith was employed as a nurse at the Orphan School; when she left, she took the younger child, David, with her. Nearly twelve months later, she was living at Mrs Glyn's in Burnett Street, and was 'out of a situation at present, looking to the Child'. In February 1860, Rev. George Hunter, Catholic Chaplain, applied to have three-year-old David Ryan readmitted to the Orphan School.¹⁷³ His father, William Ryan, was 'supposed to be in Sydney by the wife'. In support of the application, the Rev. Hunter described her as 'a steady married woman', deserted by her husband, and unable 'to obtain service whilst burthened with the child'.¹⁷⁴ She indicated that she was willing to contribute to the

¹⁶⁸ AOT, CON 41/35 Alice Griffith *Martin Luther* No.600. She was also recorded as Griffin.

¹⁶⁹ AOT, RGD 37/13 1854 Hobart Griffiths/Ryan (6 March 1854); AOT, CON 33/104, CON 14/42 and CON 18/55 William Ryan *Blenheim* (4) 1851 No.24870.

¹⁷⁰ AOT, CON 33/104 William Ryan *Blenheim* (4) No.24870.

¹⁷¹ AOT, CON 41/35 Alice Griffith *Martin Luther* No.600.

¹⁷² AOT, SWD 26/2 6 February 1860: Ryan; AOT, RGD 33/6 1855 Hobart No.276: Thomas Ryan (5 August 1855); AOT, RGD 33/6 1857 Hobart No.601: David Ryan (24 June 1857).

¹⁷³ AOT, SWD 26/3 6 February 1860: Ryan.

¹⁷⁴ AOT, SWD 26/3 6 February 1860: Ryan.

child's maintenance out of her wages, and the application was approved. It is not known what became of William Ryan but, by late 1860, it seems that Alice had formed a relationship with Henry Dorman, as they had a child early the following year.¹⁷⁵ Three years later, another child was born to the couple.¹⁷⁶ There is no record of marriage.

As a nursemaid or nurse, Alice Griffiths had skills and experience which increased her employability, but her choice of work was limited while she had care of her children. She stated that she could not work while caring for her three-year-old son, and so part of her wages went to towards his maintenance in the Orphan School.¹⁷⁷ Her relationship with Henry Dorman or Doreman may have provided some form of economic security.

Many of the deliberate arsonists settled in rural areas. Family labour, inside and outside the home, was a vital part of the rural economy.¹⁷⁸ Efficient working of a farm relied as much on women's labour inside the home as on men's role in the fields.¹⁷⁹ In addition, in rural areas, women and children were often responsible for

¹⁷⁵ Dorman was also recorded as Doreman. AOT, RGD 33/8 1861 Hobart No.4351 (19 May 1861): Mary Elizabeth Doreman. Her mother, Alice Doreman (formerly Griffin), of Liverpool Street, registered the birth. Her father, Henry was a timber merchant.

¹⁷⁶ AOT, RGD 33/9 864 Hobart No.7055: Tarindow Clara Dorman (18 July 1864). Her mother, Alice Dorman (formerly Ryan), of Barrack Street, registered the birth. Her father, Henry Dorman, was a timber dealer.

¹⁷⁷ AOT, SWD 26/2 6 February 1860: Ryan.

¹⁷⁸ Jan Kociumbas. *Australian Childhood: a history*, St. Leonards, NSW, 1997, p.46.

¹⁷⁹ Bourke, 'The Best of all Home Rulers', p.35.

milking, ploughing, sowing, harvesting, and the care of poultry, pigs and horses.¹⁸⁰ Family members, including children as young as eight, were sometimes hired out to 'more well-to-do farmers ... not averse to cheap child labour'.¹⁸¹ This was particularly the case because of the poverty of Australian convict and emancipist families, exacerbated by the absence of male householders.¹⁸² Ellen (Wiseman) Cousins, widowed at the age of fifty-six in 1886, was responsible for nearly 550 acres of farmland in the Westbury district: her adult children helped on the farm.¹⁸³ For the most part, however, family labour, and especially child labour, is invisible in the records.

Nicholas, although writing of an earlier period in New South Wales, stated that: 'Whether the task was fitting together a fence, tending sheep in a rough paddock, or forming a field by removing stumps, masters agreed that emancipists and ticket of leavers did it best'.¹⁸⁴ Louisa Meredith commented of her convict servants:

Those prisoner-women who settle in the country, with few exceptions, behave well and industriously. I know many wives of this class who keep their husbands' little cottages as clean and tidy as any honest English village dame could do, and wash or sew, to earn a little money themselves. An addiction to *drink* is the chief temptation to be feared; if they resist that, all goes well. Many of them have no family, and the spare shillings and pounds are only too likely to

¹⁸⁰ Kociumbas, *Australian Childhood*, pp.46-47. Alexander, 'The Public Role of Women': women were more likely to do milking and care for poultry.

¹⁸¹ Kociumbas, *Australian Childhood*, pp.46-47.

¹⁸² Kociumbas, *Australian Childhood*, pp.46-47; M.J. Belcher, 'The Child in New South Wales Society 1820-1837', unpublished Ph.D. Thesis, University of New England, 1982, pp.22-25.

¹⁸³ AOT, RGD 35/55 1886 Westbury No.1254: Rheuben Cousins (25 November 1886); AOT, Will: 19 July 1884; AOT, HSD 247/1 1891 No.1740.

¹⁸⁴ Nicholas, 'Public Employment', p.148.

go to the publican or the “sly grog seller,” which is still worse, being illegal as well as wrong’.¹⁸⁵

Margaret Foley, a nursegirl on arrival and a housemaid when she married, moved with her husband, Michael Snell, to the Monaro region of New South Wales, where Michael’s skills as a shepherd and farm labourer were in demand and Margaret’s work experience would have been useful.¹⁸⁶ Her conditional pardon was approved on 19 May 1857.¹⁸⁷ Michael Snell received a conditional pardon in January 1858 and his Free Certificate on 23 July 1860.¹⁸⁸ At the time of his death, Michael Snell was described as a farmer, but he had worked on local sheep farming properties at Bibbenluke and Ando, NSW.¹⁸⁹ It is likely that Margaret also worked on these properties.

Conclusion

For most of the deliberate arsonists, generally speaking, working life in colonial Van Diemen’s Land was probably not much different to what they would have experienced had they remained in Ireland. Such a conclusion is inevitably speculative, but it seems safe to say that the majority of the women belonged to the unskilled working class in Ireland and remained in this occupational grouping after being transported. In Van Diemen’s Land, the women, who were mostly domestic servants, were part of the labouring class, either through their work, or marriage, or

¹⁸⁵ Meredith, *My Home in Tasmania*, pp.209-210.

¹⁸⁶ Barbara Dawson, *Sheep & Shepherds, Sheepwashers & Shearers on Bibbenluke, 1851-1867*, Bombala, 1996; AOT, CON 33/79 and CON 17/2 p.182 Michael Snell *Mayda* 1845 No.18424.

¹⁸⁷ AOT, CON 41/30 Margaret Foley *Blackfriar* No.486.

¹⁸⁸ AOT, CON 33/79 Michael Snell *Mayda* 1845 No.18424; *HTG* 26 January 1858 p.105.

¹⁸⁹ NSW Death Certificate 1898/013099: Michael Snell (1 October 1898).

both. Few entered the class of skilled labour or trades, although some married farmers. As part of the labouring class, the women were acutely vulnerable to those circumstances which increased the likelihood of destitution: unemployment or the loss of a breadwinner through death, illness, or desertion. Yet many, through their paid and unpaid work, managed to exert some control over their lives, finding ways to overcome constraints and difficulties.

In Ireland and Van Diemen's Land, employment opportunities for women were limited. Women were concentrated in a restricted range of occupations, determined by gender and mostly unskilled, poorly paid with low status. For many of the deliberate arsonists, like many free working class women, the pattern of their adult lives was influenced by their reproductive role. Childrearing and domestic duties kept some out of the paid labour market. This did not mean that they were necessarily denied economic power. Bourke argued the position of Irish women strengthened economically and socially in the second half of the nineteenth century: 'Irish society provided powerful positions for women, even if they did not marry or earn a wage'.¹⁹⁰ Irish historians have acknowledged the increasing economic importance of female labour within the household in the late nineteenth century.¹⁹¹

¹⁹⁰ Bourke, 'The Best of all Home Rulers', p.45. Bourke, however, noted that position in the family was significant: see also Cormac O Gráda, 'Primogeniture and Ultimogeniture in Rural Ireland', *Journal of Interdisciplinary History*, x, Winter 1990, pp.491-498.

¹⁹¹ Joanna Bourke, 'Women Working: The Domestic Labour Market in Ireland, 1890-1914', *Journal of Interdisciplinary History*, Vol.21, No.3, Winter 1991, pp.479-499; Bourke 'The Household Economy' pp.44-45; L.M. Cullen, *The Emergence of Modern Ireland 1600-1950*, London, 1981, pp.140-192; David Fitzpatrick, 'The Modernisation of the Irish Female', in Patrick O'Flanagan, Paul Ferguson and Kevin Whelan (eds.) *Rural Ireland, 1600-1900: Modernisation and Change*, Cork, 1987, pp.162-180;

Bourke argued that this enabled them to gain economic power. Bourke defined power as 'control over one's environment and over one's time; it can also mean the ability to make other people obey you against their own desires, or simply not to question your authority'.¹⁹² How much power, or control, the deliberate arsonists had in colonial households and the workforce is problematic. As Bourke suggested, power has a lot to do with the replaceability and dispensability of the skills or resources of individuals: 'The refusal of a wife to cook a meal, apparently trivial, can be an important mechanism by which to enforce decision-making'.¹⁹³ The unquestioned dominance of women within the domestic sphere was a form of power.¹⁹⁴ Power fluctuated over a life time: 'For many houseworkers, power increased with age, peaking during the child-rearing period, then declining with physical weakness'.¹⁹⁵ Explicit demonstrations of power are rare, arising only when that power has been threatened.¹⁹⁶ Lessons in power and control learned under the convict system may have stood the women in good stead in their own households.

The major difference between working life in Ireland and colonial Van Diemen's Land was the role of the penal system. Working life for the deliberate arsonists had significant differences in terms of power, control and choice depending on whether it was under-sentence or post-sentence. Work was an intrinsic part of the system of

Cormac Ó Gráda, *Ireland Before and after the Famine: Explorations in Economic History, 1800-1925*, Manchester, 1988.

¹⁹² Bourke, 'The Best of all Home Rulers', p.35.

¹⁹³ Bourke, 'The Best of all Home Rulers', pp.40-41.

¹⁹⁴ Bourke, 'The Best of all Home Rulers', p.46.

¹⁹⁵ Bourke, 'The Best of all Home Rulers', p.42.

¹⁹⁶ Joseph M. Butwin, 'Seditious Laughter' *Radical History Review*, Vol.18, Fall 1978, pp.17-34.

punishment and reform to which the deliberate arsonists were subjected while under sentence. Work patterns were established under this system. The deliberate arsonists could use the system to be removed from employers who did not suit them, in the same way that employers could return unsatisfactory employees. Engineering removal from unsatisfactory employers and returning to the factory was one way of exerting control.

No evidence has been located to indicate that a convict past had a direct impact on the post-sentence working life of the deliberate arsonists. Skills gained by the women while under sentence may have assisted them to gain employment after they were free. Under the probation system, the women were trained to provide domestic labour for the colony. On arrival, the majority of the deliberate arsonists were country servants; by the time they married, they were primarily servants – general servants, house servants or housemaids. Few women were described as having occupations on their death records, but there was a greater variation in occupational descriptions, indicating the versatility of the women and their adaptability to the diversifying colonial labour market.

Those 'on their own hands' no longer had the aegis of the penal system. Convicts were used to being fed clothed and cared for by the State: compared with British free workers, they were 'well fed and clothed, and provided with a high standard of

medical care and housing [and] generally worked fewer hours'.¹⁹⁷ The convict diet was significantly better than that of free English workers in the early nineteenth century, and certainly an improvement on that of Famine Ireland.¹⁹⁸ As Nicholas stated, 'The convicts were not well treated for humanitarian or reformist reasons. The convict works were seen as a productive asset, and their care and feeding reflected the value which employers and the government placed upon them as human and physical capital'.¹⁹⁹ While they had the freedom to choose their employers, without the support of the convict system, they were economically vulnerable. The deliberate arsonists came to Van Diemen's Land with limited skills. In Ireland, they had employed various strategies to survive economically, including theft, prostitution and pawning. One deliberate arsonist admitted to living by thieving in Ireland but there is no evidence to suggest that this practice continued in the colony. Similarly, one-fifth of the deliberate arsonists confessed to having been 'on the town' in Ireland, for varying periods from a few weeks to six years. Yet in Van Diemen's Land, only one – who did not confess to being 'on the town' in Ireland – was accused of being a prostitute, and she denied the charge. Prostitution undoubtedly existed in the colony but evidence suggests it was not a survival strategy openly utilised by the deliberate arsonists.

¹⁹⁷ Nicholas, 'The Care and Feeding of Convicts' in Nicholas (ed.), *Convict Workers*, p.187.

¹⁹⁸ Nicholas, 'The Care and Feeding of Convicts', pp.183-187. For improvement in the post-Famine Irish diet, see Bourke 'The Household Economy' pp.44-45; L.M. Cullen, *The Emergence of Modern Ireland 1600-1950*, New York, 1981 pp.140-192.

¹⁹⁹ Nicholas, 'The Care and Feeding of Convicts', pp.180-198.

Rarely did the deliberate arsonists move out of the working class: Elizabeth (Quinn) Goram, who owned property in South Hobart, was the sole landowner in her own right.²⁰⁰ Eliza (Wiseman) Cousins inherited her husband's farm.²⁰¹ A handful of the women married small farmers and two married publicans. The children of the deliberate arsonists also tended to remain within the working class, as labourers and domestic servants, although there were exceptions as the mining boom of late nineteenth-century Tasmania provided economic opportunities.

Economic mobility has been used as a determinant of colonial success. Historians such as Portia Robinson, Babette Smith, Monica Perrott and Annette Salt have investigated the economic opportunities available to convict (and colonial) women, and argued that steady, hardworking convict women gained respectability.²⁰²

The deliberate arsonists – because they were young and single with adaptable skills – were an excellent human capital resource. In Van Diemen's Land, they contributed to an unskilled workforce, primarily as domestic servants. As such, they fulfilled the expectations of those officials motivated by human capital arguments. Above all, the deliberate arsonists were survivors. They used both paid and unpaid work as survival strategies, adapting to changing conditions as they worked their way through the convict system to freedom.

²⁰⁰ Data Registration Branch, DPIWE (formerly Lands Titles Office), Book 7, Memorial No.4237: Conveyance from Charles Victor Fisher, Congress Street, 11 March 1883.

²⁰¹ AOT, AD 960/16 p.159 Will No. 3266 (1886): Reuben Cousins.

²⁰² cf. Joy Damousi, '“Depravity and Disorder”: The Sexuality of Convict Women', *Labour History*, No.68, May 1995, pp.30–45.

Chapter Seven: Surviving

They lie, the men who tell us
for reasons of their own
that want is here a stranger
and that misery's unknown.¹

This chapter considers the notion of the vulnerability of the deliberate arsonists as Irish convict women and their strategies for survival.² Poverty was central to the lives of the deliberate arsonists in Ireland and in colonial Tasmania. Exacerbated by the Great Famine in Ireland and subsequent social dislocation, it induced the deliberate arsonists to seek a new life and better conditions through transportation. In Van Diemen's Land, the deliberate arsonists formed part of the labouring class, and were acutely vulnerable to those circumstances which increased the likelihood of destitution: unemployment or the loss of a breadwinner through death, illness, or desertion. For many of the deliberate arsonists, the pattern of their adult lives was determined by their reproductive role. Many spent the majority of their adult lives pregnant, giving birth and caring for young children. The range of work opportunities was limited, and the distribution of occupations was concentrated in lowly paid, low status and 'static' jobs including domestic and farm service. Added to this, the women themselves were not highly skilled. Survival for the deliberate arsonists was contingent on the employment of a number of strategies, including marriage, work and reliance on State and charitable assistance. Through these strategies, they sought control of their lives and their circumstances.

¹ Henry Lawson, 'Faces in the Street' in Colin Roderick (ed.), *Henry Lawson Collected Verse Vol. I, 1883-1900*, Sydney, 1967, p.15.

² For the vulnerability of Irish colonial (and convict) women, see Trevor McClaughlin (ed.), *Irish Women in Colonial Australia*, St Leonards, NSW, 1998.

In colonial Tasmania, the unskilled working classes frequently verged on poverty. As Shayne Breen demonstrated, at particular times of their lives, some of the labouring classes – many of whom were emancipists – were forced through circumstance to a meagre subsistence level, sometimes permanently.³ Many subsisted on charitable relief or public assistance, at least for a time. Women were particularly vulnerable. As discussed in the previous chapter, the deliberate arsonists, overwhelmingly, belonged to the unskilled working class, in Ireland and in Van Diemen's Land. This position in Ireland may have contributed to the marginalised, impoverished circumstances which prompted many to commit arson in the first place. In trial reports published by Irish newspapers, some of the women were referred to as 'travelling mendicants' or 'wandering women', implying that they had no steady work and no permanent residence. Many were tried in rural areas, and the majority gave their occupations as country or farm servants. In Van Diemen's Land, the women were either domestic servants or married to labourers, mostly casual. Few entered the class of skilled labour or trades, although some married farmers.

In Van Diemen's Land, as in Ireland, marriage was an economic survival strategy. As discussed in Chapter Four, in contemporary rural Ireland, marriage was essentially an economic transaction.⁴ Connell noted that many peasant matches

³ Shayne Breen, 'Outdoor Poor Relief in Launceston 1860-80', *THRAPP*, Vol.38, No.1, 1991, pp.19-50. See also Shayne Breen, 'Land and Power in the District of Deloraine, 1825-75', *THRAPP*, Vol.37, No.1, 1990, pp.22-33; Shayne Breen, *Contested Places. Tasmania's Northern Districts from ancient times to 1900*, Hobart, 2001.

⁴ J.J. Lee, 'Women and the Church since the Famine' in Margaret Mac Curtain and Donncha Ó Corráin, *Women in Irish Society. The Historical Dimension*, Westport, Connecticut, 1979, p.39.

were arranged: the average peasant, Michael MacDonagh suggested, 'takes unto himself a mate with as clear a head, as placid a heart and as steady a nerve, as if he were buying a cow at Ballinasloe fair'.⁵ Marriage was practical and a matter of business. Connell also commented:

Marriage gratified only incidentally a couple's sexuality, their desire for companionship or for children. It was more conspicuously an economic than a biological institution: it was part of the mechanism that perpetuated the rural economy ... Marriage ... was likely to be contemplated, not when a man needed a wife, but when the land needed a woman.⁶

Marriage and economic survival were inextricably linked. The status of women within a marriage depended on their economic contribution.⁷ In Van Diemen's Land, the economic unit created by marriage was a significant factor in survival.

For rural families, the economic unit created by marriage was especially important. As noted in Chapter Four, the nexus between large, stable families and the land was strong. The efficient running of a farm required an active couple, preferably with children to help with the labour. Some of the deliberate arsonists settled in rural areas, on their own land or providing labour for neighbouring farms: Ellen (Wiseman) and Reuben Cousins settled at Westbury, where Reuben owned land. Ann (Daley) and William Cowley settled near Evandale. Living on the land was not a guarantee of economic success, and many of the small farmers struggled to survive. Eliza (Jones) and Samuel Smith, who had land in the Huon, struggled economically as small farmers.⁸

⁵ K.H. Connell, 'Peasant Marriage in Ireland: its Structure and Development since the Famine', *Economic History Review*, Series 2, Vol.14, No.2, 1961, p.503 citing Michael MacDonagh, *Irish Life and character*, 4th ed. 1899, p.202.

⁶ Connell, 'Peasant Marriage' p.503.

⁷ For discussion of this point in an Irish context, see Lee, 'Women and the Church', pp.38-39.

⁸ Richie N. Woolley, *Above the Falls. The People and the History of the Upper Huon*, Geilston Bay, 2002, pp.80-84.

At least one deliberate arsonist continued on the land after her husband died. As noted in the previous chapter, Ellen (Wiseman) Cousins, widow of Reuben, worked her husband's property with the assistance of her adult children.⁹ At the time of Reuben's death in 1886, Ellen was in her late fifties. Running the farm was probably not easy: in 1891, Ellen's thirty-one-year-old daughter, Mary Ann Cousins, was admitted to the New Norfolk Asylum suffering from 'melancholia' and physical exhaustion; she had been 'working on her mother's farm' at Black Sugar Loaf.¹⁰

Colonial land transactions were consistent with Connell's comments about rural Ireland, in that land was transferred to sons but only after the widow was accommodated:

When a farmer did make a will, he was likely to show every consideration for his wife – short of facilitating her remarriage: the land, almost invariably, was left to her: but usually it was hers "for her day", not outright, lest she be tempted to marry again, to the "discomfort and dispersal"; of her first family. She was her husband's working partner'.¹¹

This was true of Reuben Cousins, who provided in these terms for his wife Ellen (Wiseman). James Askey, on the other hand, left all his personal estate to his wife, Mary Eliza (Keefe), but his real estate at Bridgewater to his sons.¹² Even

⁹ AOT, RGD 35/11 1886 Westbury No.1254: 'Reuben Cousins' (25 November 1886); AOT, CON 31/8 and CON 18/14 Reuben Cousins *Layton* (3) 1839 No. 2519 : Reuben Cousins. At the time of his death, Reuben Cousins owned property including 'Park Farm', at Selbourne and Bridgenorth (just over 340 acres) and 'Spring Farm' at Selbourne (200 acres): AOT, AD 960/16 p.159 Will No.3266 (1886): Reuben Cousins. The will refers to his wife as 'Helen'.

¹⁰ AOT, HSD 247/1 1891 No.1740. Mary Ann recovered and was discharged on 8 June 1892. In 1906, she was a 45-year-old housekeeper from Deloraine. She was re-admitted by Justices Order and was said to be suffering from 'dementia'. Her bodily condition was 'feeble' and she died there on 18 October 1907.

¹¹ Connell, 'Peasant Marriage in Ireland', pp.511, 514.

¹² AOT, AD 960/18 pp.486-487 Will No.4164 (1891): James Askey.

where there was no land involved, widows were provided for: John Perry left his 'goods chattels rights credits and effects', less than £50 in value, to his widow, Mary (Prendgast).¹³

William Cowley did not leave a will, although he owned a house at White Hills, near Evandale, from at least 1874: the four-roomed house was on less than one acre of land with an annual value of £9.¹⁴ Ann (Daley) Cowley continued to live in this house for at least another thirteen years after William's death in 1886: she was recorded as the owner and occupier at least until 1899.¹⁵

Good choice of marriage partner was crucial to economic survival.¹⁶ As noted in Chapter Four, in the case of Bridget Dooling, poor choice could have devastating consequences. Some of the deliberate arsonists, however, formed solid partnerships, which lasted for many years. Mary (Leary) and James Nicholls were married forty-six years when James died in 1895.¹⁷ James was a painter when he arrived in Van Diemen's Land and appears to have been consistently employed as such: the birth registrations of his six children record this as his occupation as does his death certificate.¹⁸ The stability of a trade, or continuous employment, contributed to economic survival.

¹³ AOT, AD 960/27 p.165 Will No.6437 (1904) John Perry.

¹⁴ *HTG Valuation Rolls* 1874: Evandale.

¹⁵ *HTG Valuation Rolls* 1894, 1899: Evandale.

¹⁶ See Babette Smith, *A Cargo of Women. Susannah Watson and the Convicts of the Princess Royal*, Sydney, 1988.

¹⁷ AOT, RGD 35/15 1895 Hobart No.288: James Nicholls (2 September 1895). See also SRCT, Record ID 10277, RC, Section D, No. 74: James Nichols; Tasmanian Death Certificate 1901 Hobart No.0754: Margaret 'Nicholls': aged 78, she died in 1901, of 'old age'; SRCT, Record ID12832, RC, Section D, No.74: Margaret Nichols.

¹⁸ AOT, RGD 33/3 1850 Hobart No.2625: male Nicholls (24 August 1850); AOT, RGD 33/4 1853 Hobart No.2060: male Nicholls (4 February 1853); AOT, RGD 33/5 1854 Hobart No.1046: female

The formation of close non-familial networks was another strategy for survival. Many of the deliberate arsonists offended with other women, and this may have been a safety-net of sorts: they were not alone. In her trial report, Jane Allen, who had no family members living, referred to her 'comrade girls';¹⁹ evidence suggests that similar connections continued in Van Diemen's Land. Little work has been done on the development and maintenance of close, non-familial convict networks, although this has been a focus of migrant studies.²⁰ Rushen, for example, analysed witnesses to marriage for evidence of networks, concluding that 15 per cent of the migrant women in her study were known to have witnessed each other's marriage and maintained some form of contact.²¹ Evidence from a number of studies of migrant women suggests that Irish women, in particular, maintained contact and developed strong non-familial groupings.²² Other historians, including Reid, Fitzpatrick, and O'Farrell, have commented on the development of strong associations among Irish migrants.²³ At least some of the women transported for arson witnessed each other's marriages. In some cases, deliberate arsonists tried together witnessed each other's marriage: in 1854, when

Nichols (20 June 1854); AOT, RGD 33/7 1857 Hobart No.510: male Nichols (23 May 1857); RGD 33/7 1859 Hobart No.2344: John Nichols (11 March 1859); AOT, RGD 33/8 1861 Hobart No.4545: George Nichols (28 July 1861); AOT, RGD 35/15 1895 Hobart No.288: James Nicholls (2 September 1895).

¹⁹ *The Wexford Independent* 6 March 1850 p.2 col.6.

²⁰ See, however, Trudy Cowley, *A Drift of Derwent Ducks: A study of the female Irish convicts transported on the Australasia from Dublin to Hobart Town, 1849*, forthcoming publication.

²¹ Elizabeth Anne Rushen, 'Free, single and female: the women of the first scheme for female emigration to Australia, 1833-1837', unpublished Ph.D. Thesis, Monash University, 1999, p.215.

²² Rushen, 'Free, single and female', p.216. She found that 53% of Irishwomen witnessed each others marriages compared with 34% of Englishwomen.

²³ Richard Reid, 'Green Threads of Kinship! Aspects of Irish chain-migration to New South Wales, 1820-1886', *Familia, Ulster Genealogical Review*, Vol.2, No.3, 1987; David Fitzpatrick, 'Irish Immigrants in Australia: Patterns of Settlement and Paths of Mobility', *Australia 1888*, Bulletin No.2, August 1979; Patrick O'Farrell, *The Irish in Australia. 1788 to the Present*, 3rd edition, Sydney, 2000.

Alice Griffith married William Ryan, one of the witnesses was Alice Tobin, who had been tried and transported with her.²⁴ William Ryan also arrived on the same ship as Alice Tobin's husband.²⁵

Networks created by marriage, particularly in rural communities, provided a safety-net. A sense of community flourished where the land was closely settled by a predominantly agricultural population.²⁶ As Atkinson stated, 'The network created by intermarriage is an effect, a sign and a cause of community, of social solidarity'.²⁷ Elizabeth Quinn married into an Irish convict family named Gorham, of which two, and possibly three, brothers were transported and settled at Ridgeway. The brothers all married Irish convicts, creating a complicated network of family connections through intermarriage.²⁸

Nevertheless, the deliberate arsonists, like most convict women, were acutely vulnerable to poverty. Poverty was intensified by the loss of a breadwinner, through death, incapacitation, imprisonment or desertion. The death of a husband often left his widow and family economically exposed. As already noted in the

²⁴ AOT, RGD 37/13 1854 Hobart No.660: Griffiths/Ryan (6 March 1854). In some cases, witnesses appear to be fellow-arsonists from the same county. A possible example is Honora Daly who married Thomas Winterbottom in 1855. Witnesses to the marriage were James Nicholls and Margaret Nicholls – most probably James Nicholls and Margaret Leary who married in Hobart in 1849. Both Honora Daly and Margaret Leary were from County Clare but whether this is evidence of a real link or merely a coincidence is impossible to determine: see AOT, RGD 37/14 1855 Hobart No.396 Daly/Winterbottom; AOT, CON 41/30 Honora Daly *Blackfriar* 1851 No.752; AOT, CON 41/19 Margaret Leary *Kinnear* (2) 1848 No.405; AOT, RGD 37/8 1849 Hobart No.767: Leary/Nicholls (5 November 1849).

²⁵ AOT, CON 33/104 William Ryan *Blenheim* (4) 1851 No.24870; AOT, CON 33/104 William Moy *Blenheim* (4) 1851 No.24816.

²⁶ Alan Atkinson, 'Marriage and Distance in the Convict Colonies, 1838', *The Push from the Bush. A Bulletin of Early Social History*, No.16, October 1983, p.68.

²⁷ Atkinson, 'Marriage and Distance', p.62.

²⁸ AOT, RGD 37/15 1856 Hobart No.473: Quinn/Goram (1 September 1856). Martin's brother, Patrick, was a witness.

case of Bridget Dooling, a widow had few options. Some women requested assistance from the Benevolent Society or applied to have their children admitted to the Orphan School. In some cases, the death of a husband came after a long illness, exacerbating the impoverished circumstances of a widow and her family. The incapacitation of a husband or partner often meant a crippling loss of income, particularly if the wife was also not strong or was unable to work because of young children. This was the case for deliberate arsonist Alice (Tobin) Moy, whose husband was incapacitated and institutionalised before dying at the age of thirty-nine.²⁹ Alice survived on public aid until she remarried five years later.³⁰

For many of the deliberate arsonists, and convict women generally, a strong pattern developed of relying at times on the government for assistance, or social welfare, in what Jill Roe referred to as part of a tradition of 'colonial socialism'.³¹ This was not surprising: convicts were accustomed to being fed, clothed and looked after by the State.³² As noted above, some women, like Alice (Tobin) Moy, survived on public aid; others relied on institutional assistance, such as that offered by the Orphan School. As well, others turned to charitable bodies, such as the Hobart Benevolent Society, to supplement their meagre income. An increasing number of families were left to fend for themselves from the late

²⁹ AOT, HSD 247/1 Folio 606: William Moy; AOT, RGD 35/38 1869 New Norfolk No.359: William Moy (23 September 1869).

³⁰ AOT, Legislative Council Paper No.47/1871 p.38: *Return of Persons who were in receipt of public funds on 1 December 1870*. See also Irene Schaffer & Joyce Purtscher, *The Sick and the Poor in Tasmania 1870 Persons in Receipt of Public Aid*, Hobart, 1994, p.43; AOT, RGD 37/33 1874 Oatlands No.597: Moy/Thrower (19 July 1874).

³¹ Jill Roe, 'Old Age, Young Country. The First Old-Age Pensions and Pensioners in New South Wales', *Teaching History*, July 1981, p.26. See also Brian Dickey, *No Charity There: A Short History of Social Welfare in Australia*, Melbourne, 1980, esp. Ch.4.

³² Stephen Nicholas, 'The Care and Feeding of Convicts' in Stephen Nicholas, (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp.180-198.

1850s, judging from the pleas for admission of children to the Orphan School. Poverty was widespread in the colony.³³ Charitable organisations were established, but only assisted those they judged to be deserving.³⁴ According to O'Brien, 'The expectation that the extended family would and should contribute to the support of needy members was intrinsic to the nineteenth century philosophy of charity'.³⁵ Many of the deliberate arsonists, like convicts generally, simply did not have extended family to help out in tough times, and there was a limit to the assistance that community networks could provide. Women, children, the aged and unemployed frequently battled against destitution, and this was exacerbated for those without the support of a family as a protective economic unit.³⁶

Families also struggled to survive when one or both of the parents were imprisoned. As noted earlier, when George Leathley was imprisoned, his wife Catherine struggled to support their children. Her difficulties were compounded when she was also sent to prison for two months, because she could not pay a £2 fine. Her children were left with no-one to care for them.³⁷ After two of the children were found 'wandering about the streets houseless', they were admitted

³³ For conditions in the 1860s, see Peter Bolger, 'Hobart Town Society 1855-1895', unpublished Ph.D. Thesis, Australian National University, 1968.

³⁴ For a discussion of the use of the terms 'deserving' and 'undeserving poor' in relation to colonial charity, see Dickey, *No Charity There*, pp.30-66, and Joan C. Brown, '*Poverty is not a Crime*'; *Social Services in Tasmania 1803-1900*, Hobart, 1972, pp.107-123.

³⁵ Anne O'Brien, *Poverty's Prison: The Poor in New South Wales 1880-1918*, Melbourne, 1988, p.32.

³⁶ For the family as a protective economic unit, see O'Brien, *Poverty's Prison*, pp.11-17. See also Shirley Fisher, 'The Family and the Sydney Economy in the late Nineteenth Century' in Patricia Grimshaw, Chris McConville and Ellen McEwan (eds.), *Families in Colonial Australia*, Sydney, 1985, pp.153-162.

³⁷ AOT, SWD 26/9 26 January 1866: Leathley; AOT, LC 247/32 (5 December 1865); *The Mercury* 24 January 1866;

to the Queen's Asylum for Destitute Children, also known as the Orphan School.³⁸ Their sister was admitted the following year.³⁹ There is no evidence that the family unit reformed.

Economic vulnerability was also exacerbated by the loss of a breadwinner through desertion. Desertion was a nebulous area, which left many women particularly susceptible to poverty.⁴⁰ In some instances, desertion was simply the absence of a male partner for work-related reasons, the consequence of an itinerant rural workforce.⁴¹ It was also the result of failed marriages or *de facto* relationships.⁴² Desertion legislation was introduced to Van Diemen's Land in 1847, in the form of the *Act for the Maintenance of Deserted Wives and Children*. It allowed a woman to apply for maintenance from her husband on a weekly or monthly basis, but, as Damousi stated, it was difficult to enforce, forcing many deserted wives to rely on institutional and charitable aid.⁴³

Occasionally, a deserting husband was located and returned to his family, or, like Bernard Gallagher,⁴⁴ he returned to them of his own accord. Others were arrested

³⁸ AOT, SWD 26/9 26 January 1866: Leathley.

³⁹ AOT, SWD 26/9 26 January 1866: Leathley.

⁴⁰ O'Brien, *Poverty's Prison*, esp. Ch. 9. See also Anne O'Brien, 'Left in the Lurch: Deserted Wives in N.S.W. at the turn of the century' in Judith Mackinolty, *In pursuit of justice: Australian women and the law 1788-1979*, Sydney, 1979, pp.96-105; Christina Twomey, *Deserted and Destitute. Motherhood, Wife Desertion and Colonial Welfare*, Melbourne, 2002.

⁴¹ O'Brien, 'Poverty's Prison', p.102; Twomey, *Deserted and Destitute*; Kociumbas, *Australian Childhood*, p.42.

⁴² Judith Allen, 'The Intervention of the Pathological Family: A Historical Study of Family Violence in New South Wales' in Carol O'Donnell and Jan Craney (eds.), *Family Violence in Australia*, Melbourne, 1982, pp.1-27.

⁴³ Joy Damousi, *Depraved and Disorderly. Female Convicts, Sexuality and Gender in Colonial Australia*, Cambridge, 1997, p.161. For NSW, see M.J. Belcher, 'The Child in New South Wales Society: 1820-1837', unpublished Ph.D. Thesis, University of New England, 1982, p.265: it was introduced in 1840.

⁴⁴ AOT, SWD 26/6 4 July 1863: Gallagher.

and forced to pay maintenance, as in the case of John Sullivan, who abandoned his new wife, leaving her to care for eight children under the age of ten,⁴⁵ and recently-widowed John Hilsley, who abandoned his three children.⁴⁶

Drunkenness

Economic precariousness was also aggravated by other factors. Poverty was often blamed on alcohol, and excessive drinking. This was a popular refrain in the law courts.⁴⁷ When Alice Julian was tried in Hobart in 1865 for uttering counterfeit coin, she was found guilty, with a recommendation for mercy. The judge, Sir Valentine Fleming, Chief Justice, commented:

there was one unhappy feature in the case, and that was that her offence was not a solitary one. The evidence connected her not only with the one coin that she had uttered, but with two others, and therefore he was afraid, whether arising from poverty or some other cause, and he was not sure that it was not the same cause which placed many, both males and females in the dock, namely drink – for it had not escaped his notice that [Constable] Dorsett said that she was partially under the influence of drink – that she was not satisfied with the money her husband obtained by honest work, and that she allowed herself to fall into this mode of obtaining money by passing spurious coin.⁴⁸

Drinking was a motif that ran through accounts of the trial. The offence had taken place in an hotel, and Alice's young daughter had been able to go into the hotel and buy rum. The ease with which children could buy alcohol was not remarked upon and was perhaps common-place: in another instance, Mary Dunne, while an assigned servant, was punished for having sent her master's daughter to obtain drink, while she was entertaining two men on her master's premises.⁴⁹

⁴⁵ AOT, LC 247/32 (14 February 1865): Sullivan v Sullivan, maintenance.

⁴⁶ AOT, LC 247/27 (24 March 1865).

⁴⁷ *The Mercury* 25 June 1866: case of George Leathley.

⁴⁸ *The Mercury* 3 July 1867: case of Ellen Walker (Alice Julian)

⁴⁹ AOT, CON 41/30 Mary Dunne *Blackfriar* No.762.

In exploring the attitudes amongst convicts and emancipists towards facets of everyday life, such as marriage, gender-roles, child-birth and child-rearing, sickness, growing old, privacy, work and leisure, Karskens concluded that new nineteenth-century ideas of gentility and respectability, emerging from the consumer and industrial revolutions, were of little significance. Traditional and communal mores were more apparent amongst the convict and emancipist parts of society, and formed part of what she termed the 'pre-industrial culture of the lower orders', which included gambling, drinking, dancing and singing, cock-fights and public brawling.⁵⁰ Some historians have assumed drinking was part of the convict life experience, a tradition the 'lower orders' brought with them to the colonies.⁵¹ The Irish, in particular, were believed to have a penchant for drink and a culture of excessive drinking: 'Wherever the Irish appeared addicted to 'alcohol and drinking' they 'fashioned a race of savage barbarians who threatened the very fabric of British society'.⁵²

Determining colonial drinking patterns, however, is difficult. Drunkenness was considered both a crime and a sin, and was therefore a complex issue.⁵³ The reasons why people drink are determined by a variety of factors, including availability and access. In colonial society, however, lack of evidence hinders an

⁵⁰ Grace Karskens, 'Death was in his face: Dying, Burial and Remembrance in Early Sydney', *Labour History* No.74 1998 pp.21-22. See also Richard Waterhouse, *Private Pleasures, Public Leisure: A History of Australian Popular Culture Since 1788*, Melbourne, 1995, esp. Chapters 1 & 2.

⁵¹ See, for example, M.B. and C.B. Schedvin, 'The nomadic tribes of Britain: a prelude to Botany Bay', *Historical Studies*, Vol.18 No.71, October 1978, p.275 & passim.

⁵² C.M.H. Clark, *A History of Australia*, Vol.3, Melbourne, 1973, p.236. See also Michael Roe, *Quest for Authority in Eastern Australia, 1835-1851*, Melbourne 1965, pp.165-190.

⁵³ For the origins of the concept of drunkenness as a punishable sin, see Stephen Garton, '“Once a drunkard always a drunkard”: social reform and the problem of “habitual drunkenness” in Australia, 1880-1914', *Labour History*, No.53, November 1897, p.39.

understanding of these factors.⁵⁴ Despite this, it has been generally agreed that excessive drinking was prevalent in colonial Australia and there has been considerable speculation as to the reason.⁵⁵ Dingle, for example, favoured an escapist explanation – the desire to escape, or survive, the harsh realities of life. This was particularly true for convicts, who had a cultural predisposition to excessive drinking ‘reinforced by the forced transfer to a new and hostile environment where alcohol was one of the few comforts available’.⁵⁶ He continued: ‘Not only were convicts poorly adapted to deal with the circumstances in which they found themselves, they were predisposed to a reliance on alcohol because of their social and psychological conditioning. They were drawn from a culture which if it did not encourage drinking and drunkenness, at least condoned it’.⁵⁷ Dingle did concede, however, that his conclusions were speculative rather than based on hard evidence.⁵⁸

According to O’Brien, alcohol was the main source of working-class recreation.⁵⁹ Dingle concurred, explaining this by stating that ‘Once basic needs for food and shelter had been satisfied there was little else to do with surplus purchasing power other than to save it, gamble it or drink it away’.⁶⁰ This was reflected in the ‘proliferation of licensed houses and hotels’ which provided a focus for

⁵⁴ A.E. Dingle, ‘“The Truly Magnificent Thirst”: an historical survey of Australian drinking habits’, *Historical Studies* Vol.19, No.75, 1980, p.230.

⁵⁵ See, for example, Michael Sturma, *Vice in a Vicious Society. Crime and Convicts in Mid-Nineteenth Century New South Wales*, St. Lucia, 1983, Ch.7.

⁵⁶ Dingle, ‘Magnificent Thirst’, p.238. See also O’Brien *Poverty’s Prison* p.83 for an exposition of the escapist theory in relation to the poor.

⁵⁷ Dingle, ‘Magnificent Thirst’ p.238.

⁵⁸ Dingle, ‘Magnificent Thirst’ p.234.

⁵⁹ O’Brien, *Poverty’s Prison*, p.81.

⁶⁰ Dingle, ‘Magnificent Thirst’, p.238.

community life.⁶¹ Writing of Van Diemen's Land, Kilner agreed: 'the only form of relief from the monotony of colonial life was usually the public house, or its more disreputable counterpart, the sly-grog shop'.⁶² The reasons for drinking, and the extent of drinking, remain problematic.

Certainly, there is no evidence among the deliberate arsonists to shed light on how much they drank or why they drank. Nor is there evidence as to how much their colonial drinking patterns were predetermined by Irish drinking patterns. What skerrick of evidence exists is revealed in confessions of previous convictions. Only two of the deliberate arsonists admitted to alcohol-related offences in Ireland. Jane Hyland, a twenty-three-year-old housemaid from County Galway who had been 'on the town' for two or three years, admitted to two previous convictions for drunkenness. She had only one colonial offence, for disobedience of orders.⁶³ Ann Tuohy, a twenty-two-year-old country servant from Limerick, stated that she was drunk when she set fire to the house of Dennis M'Carthy at Mount Shannon, Limerick, in 1846. Although she had colonial convictions for such offences as being disorderly, for insolence and for fighting and assault, there is no evidence to suggest that these were related to alcohol. Nor is there any evidence to suggest that alcohol played a significant or detrimental part in her life after she received her conditional pardon in 1857.⁶⁴

⁶¹ Dingle, 'Magnificent Thirst', p.239.

⁶² Rod Kilner, 'Temperance and the Liquor Question in Tasmania in the 1850s', *THRAPP*, Vol.20, June 1973, pp.83-84.

⁶³ AOT, CON 41/20 and CON 15/5 Jane Hyland *Lord Auckland* (3) 1849 No.749.

⁶⁴ AOT, CON 41/12 and CON 15/4 Ann Tuohy *Arabian* 1847 No.286.

The perceived consequences of habitual drunkenness were the concern of social observers and temperance reformers, who believed it to be the principal cause of poverty, crime, insanity, disease, family breakdown, and a myriad of other social problems.⁶⁵ In Tasmania, the temperance movement dated from the 1830s.⁶⁶ By the 1850s, temperance groups were concerned at the high number of public houses: in 1854, there were 180 public houses in Hobart for a population of 23,000 (that is, one public house to every 127 inhabitants).⁶⁷ There were frequent convictions for drunkenness.⁶⁸ The Roman Catholic Church in Tasmania, led by humanitarian Bishop Robert Willson, was active in the temperance movement.⁶⁹ A sermon given by Willson in 1859 vividly summed up the many perceived evils of inebriation:

I ... direct your attention especially to one vice, the parent of almost all other crimes, such as murder, adultery, theft, culamny, desecration of the Lord's day, poverty and hunger of children and families, ruin of others, scandals, blasphemies, perjuries, prostitutions even of children – delirium tremens – often perpetual insanity – nervous trembling – drivelling and premature old age – sudden death by fire, water, and various other ways – chains and prisons – degrading punishments, even a malefactor's death – I mean the debasing and hideous sin of drunkenness.⁷⁰

As well as a sin or moral weakness, drunkenness was a crime, and drink-related charges constituted the single largest category of colonial arrests and

⁶⁵ For temperance, see Roe, *Quest for Authority*, pp.165-190; Garton, 'Once a drunkard', pp.38-53; Rod Kilner, 'Temperance and the Liquor Question in Tasmania in the 1850s', *THRAPP*, pp.82-97; A.W. Martin, 'Drink and Deviance in Sydney: Investigating intemperance, 1854-5', *Historical Studies*, Vol.17, No.68, April 1977, pp.342-360; Elizabeth Windschuttle, 'Women, class and temperance: moral reform in Eastern Australia, 1832-57', *Push from the Bush* No.3, May 1979, pp.5-25.

⁶⁶ Roe, *Quest for Authority* p.167; Kilner, 'Temperance', p.84.

⁶⁷ Kilner, 'Temperance', p.83.

⁶⁸ Kilner, 'Temperance', p.88. There were an average of 10 convictions per day in a population of 23,000 in Hobart: *Legislative Council Van Diemen's Land: Votes and Proceedings and Papers*, Volume 4, 1854, Petition 45.

⁶⁹ Roe, *Quest for Authority*, pp.110-111; Kilner, 'Temperance', p.87.

⁷⁰ Kilner, 'Temperance', p.87 citing R.W. Willson *Pastoral Letter for Lent 1859*, Hobart Town 1859, Catholic Church Archives.

convictions.⁷¹ Sturma questioned the validity of statistics for arrests for drunkenness, suggesting that, perhaps more than any other offence, the number of arrests reflected public concern rather than actual incidence.⁷² The number of arrests was also related to police practice, and the visibility of the offence.⁷³ Drink-related charges – drunkenness, and offences such as drunk and disorderly behaviour – were crimes punishable by fines or imprisonment. In Van Diemen's Land, those deliberate arsonists convicted of drunkenness while under sentence were usually imprisoned; those holding a ticket-of-leave were fined or, if they did not pay the fine, imprisoned.

It is difficult to say how widespread drunkenness was in colonial Tasmania, and whether the number of charges for drunkenness and disorderly conduct reflect the level of alcohol consumption. It is difficult, too, to say how representative drunkenness was of the female convict experience. Certainly, a number of the deliberate arsonists were charged with some form of alcohol-related offence: at least fourteen were punished for being drunk or for drink-related offences while under sentence.⁷⁴ Punishment ranged from imprisonment for forty-eight hours to

⁷¹ Garton, 'Once a drunkard', p.39.

⁷² Sturma, *Vice in a Vicious Society*, p.142.

⁷³ Sturma, *Vice in a Vicious Society*, pp.143-144. See also Michael Sturma, 'Police and Drunkards in Sydney, 1841-1851', *Australian Journal of Politics and History*, Vol. 27, No.1, 1981, pp.48-56. Sturma suggested (p.51) that the pattern of consumption of alcohol was related to economic trends, increasing in times of relative prosperity and decreasing in times of adversity. He also suggested that the role of the police was a significant factor in the level of alcohol-related charges. See also Dingle 'Magnificent Thirst', pp.229, 234.

⁷⁴ The drink-related offences included being under the influence of liquor: AOT, CON 41/33 Mary Ann Williams *John William Dare* 1852 No.950; being in a public house on a Sunday afternoon: AOT, CON 41/36 Mary Keefe *Midlothian* 1853 No.492; and sending her master's daughter for drink: AOT, CON 41/30 Mary Dunne *Blackfriar* No.762.

two months with hard labour. Some, like Mary Kirwin, were simply admonished.⁷⁵

One of the deliberate arsonists to receive a short sentence for being drunk was Catherine Cullinane: in April 1853, she spent forty-eight hours in the cells. This was her second drink-related offence. She had been in the colony eighteen months when she was first punished for being drunk – in July 1851, while an assigned servant, she was sentenced to fourteen days in the cells. She was punished several times for absconding and being absent, but had only two drink-related offences.⁷⁶

At the other end of the scale, Mary Dunne, six months in the colony, was sent to the House of Correction for two months' imprisonment with hard labour in December 1851 for being drunk. On her release, in February 1852, she was assigned in Hobart and in June 1852, she was sentenced to six months' hard labour for letting two men enter her master's premises without authority and for having sent her master's daughter to obtain drink. For this, she was sentenced to six months' hard labour in the House of Correction.⁷⁷

With such little evidence, it is difficult to draw broad conclusions about the convictions for drunkenness, and the circumstances that led to the charges being laid. It is worth noting, however, that of the fourteen women charged with a drink-related offence under sentence, the majority had only one colonial

⁷⁵ AOT, CON 41/30 and CON 15/7 Mary Kirwin *Blackfriar* 1851 No.426.

⁷⁶ AOT, CON 41/20 Catherine Cullinane *Lord Auckland* (3) 1849 No.935.

⁷⁷ AOT, CON 41/30 Mary Dunne *Blackfriar* No.762.

conviction for drunkenness and only one, Mary Hennessy, had more than two.⁷⁸ As well as Catherine Cullinane and Mary Dunne, there were two others – Margaret Behan and Catherine Fitzgerald – who had two drink-related offences. Twenty-four-year-old Margaret Behan was a plain laundress who had been in the colony thirteen months when she was convicted of being drunk; she was sent to the Launceston Factory for two months' hard labour. In 1852, while assigned at Westbury, she received three months' hard labour for being drunk and destroying property.⁷⁹ (In 1854, after just a year of marriage, she also was given one months' hard labour for being disorderly, before being returned to her husband, but there is no evidence to suggest this was drink-related.)⁸⁰ Catherine Fitzgerald had numerous colonial offences. In 1853, she was punished for disorderly conduct, but, again, there is no indication that it was drink-related. In 1856, while under assignment, she was sent to the House of Correction for fourteen days in solitary confinement for being drunk. In June 1856, also while under assignment, she was given seven days' solitary confinement for being drunk and out after hours.⁸¹ She married in 1857 but continued to offend.

Mary Hennessy had numerous drink-related offences. A frequent absconder, she had several other colonial offences, and had her existing sentence of transportation extended for committing larceny.⁸² In 1852, she was given three months' hard labour for being drunk and absent. When she appeared before the

⁷⁸ Catherine (Mannon) Leathley had at least 15 drink-related offences but none while under sentence: AOT, CON 41/46 Catherine Mannon *Earl Grey* 1850 No.1092.

⁷⁹ AOT, CON 41/26 Margaret Behan *Earl Grey* 1850 No.1044.

⁸⁰ AOT, CON 41/26 Margaret Behan *Earl Grey* 1850 No.1044.

⁸¹ AOT, CON 41/36 Catherine Fitzgerald 2nd *Midlothian* 1853 No.536.

⁸² AOT, CON 41/35 and CON 15/7 Mary Hennessy *Martin Luther* No.950. On 6 June 1854, she was charged with larceny under the value of £5; her existing sentence of transportation was extended 12 months.

Police Magistrate in Hobart in 1858, she was fined ten shillings for being drunk in a public street, – ‘as a free person’, although at the time she only had a ticket-of-leave.⁸³ On the same day, for absconding, she was sentenced to three months’ hard labour and was ordered not to reside in Hobart. She had been absent from her authorised place of residence in Murray Street, Hobart, from 29 July until 10 August 1858.⁸⁴ In November 1858, she was granted her certificate of freedom. She appeared at least twice more before the courts: in 1859, charged with being ‘an idle and disorderly person, in being a common prostitute wandering the Street in Hobart Town on the night of the 15 June Instant and behaving in a riotous and indecent manner,’⁸⁵ and in 1865, charged with ‘being drunk and incapable of taking care of herself in a public street’.⁸⁶

Some of the women had been in the colony only a short time before being charged with drunkenness. It is possible that imprisonment acted as a deterrent. Johanna Sullivan, a nineteen-year-old child’s maid, was convicted of drunkenness three weeks after her arrival. She was sentenced to imprisonment for one month with hard labour. She had other colonial offences but no more for drunkenness.⁸⁷ Mary Murphy, a twenty-four-year-old housemaid, had been in the colony just on twelve months when she was sent to the Female Factory for one month with hard labour for being drunk on the premises of her master Stokell. Although she had other colonial offences, she had no more for drunkenness.⁸⁸

⁸³ AOT, LC 247/28 (10 August 1858); AOT, CON 41/35 Mary Hennessy *Martin Luther* No.950.

⁸⁴ AOT, LC 247/28 (10 August 1858).

⁸⁵ AOT, LC 247/28 (16 July 1859).

⁸⁶ AOT, LC 247/32 (5 January 1865).

⁸⁷ AOT, CON 41/35 Johanna Sullivan *Martin Luther* No.1007.

⁸⁸ AOT, CON 41/22 Mary Murphy 2nd *Maria* (2) 1849 No.997.

Eliza Guilfoyle, a nineteen-year-old nursemaid who had been 'on the town' for two months before being transported, had a number of colonial offences, including several for absconding, being absent without leave, and being out after hours. Her first colonial offence, in September 1851, was for being 'disorderly'. In August 1856, she was given fourteen days in solitary confinement for being 'drunk and disorderly'.⁸⁹

Some of the women had been in the colony several years before being charged with drunkenness. For Mary Donovan 3rd, the charge appears to be her only colonial blemish. A twenty-two-year-old country servant, she had no previous convictions when she arrived in 1849. She married in Bothwell in February 1853, and later that year was recommended for a conditional pardon. In October 1854, three months before receiving her conditional pardon, she was fined for being drunk, probably at Bothwell where she was most likely living. At the time, she was married and had an eight-month-old child.⁹⁰

Historians writing about drinking in colonial Australia have emphasised its masculine aspect.⁹¹ Dingle, addressing the issue of the masculinity of excessive colonial drinking, calculated that 'women and children were drinking relatively little'.⁹² He concluded that they were hostile to heavy male drinking because of its destructive impact on the home, on family life and the family budget. It is

⁸⁹ AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518.

⁹⁰ AOT, CON 41/22 Mary Donovan 3rd *Maria* (2) 1849 No.647.

⁹¹ For a useful summary, see Dingle, 'Magnificent Thirst', p.227.

⁹² Dingle, 'Magnificent Thirst', p.241. Dingle said this explained why women were at the forefront of the temperance movement.

possible that marriage may have influenced drinking habits. Mary Kirwin had no colonial convictions before her marriage in 1852. In 1855, as a ticket-of-leave holder, she was admonished for being drunk.⁹³ On the other hand, Catharine Beames ceased to offend after she married. A twenty-two-year-old country servant when she arrived, she had several colonial offences, including two for resisting a constable in the execution of his duty. In January 1854, she was charged with being drunk and for insolence, and was sentenced to six months' hard labour.⁹⁴ Just on a year later, in January 1855, she married and does not appear to have re-offended, although there is no record of her after her conditional pardon was approved in January 1856.⁹⁵

It is possible, too, that bringing a drunken charge was as much a form of control within a marriage as it was in society generally. This seems to be the case for Maria Collister, who had only one minor offence before her marriage in April 1852.⁹⁶ Seven months after her marriage, she was assigned to her husband, John Kirkpatrick. In March 1854, she was sent to the House of Correction for two months for being drunk and disorderly. On the completion of her sentence, she was returned to her husband, but absconded eighteen months later.⁹⁷ Interestingly, with the exception of Mary Hennessey, none of the women charged

⁹³ AOT, CON 41/30 Mary Kirwin *Blackfriar* No.426. In April 1855, she was punished for being absent from muster in May 1855, she was sentenced to 3 months' hard labour for being absent from her place of residence without a pass.

⁹⁴ AOT, CON 41/33 Catharine Beames *John William Dare* No.1167.

⁹⁵ AOT, CON 41/33 Catharine Beames *John William Dare* No.1167. Her husband, John Brooks, was imprisoned for 2 years in 1874 for housebreaking and stealing, and for 3 years in 1886 for unlawful wounding: see AOT, CON 33/89 John Brooks *Anna Maria* (1) 1848 No.20645; *Mercury* 4 December 1874 p.2 col.7-p.3 col.2; *The Mercury* 24 March 1886 p.4 cols. 3-4.

⁹⁶ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077. This was for being absent without leave, for which she received 10 days in the cells.

⁹⁷ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077.

with drink-related offences while serving their sentence appear to have been similarly charged once free.

Drunkenness was not only a crime: it could have a devastating impact on the life of individuals and their families.⁹⁸ The impact of excessive drinking and consequent violent behaviour on family life can be clearly seen in the case of Catherine Mannon. Catherine Mannon, a twenty-three-year-old housemaid, had arrived in Van Diemen's Land with no previous convictions and a shipboard report stating that her character was 'good and useful'.⁹⁹ She had no colonial convictions recorded on her conduct record while serving her sentence and married in March 1853. Her conditional pardon was approved in July 1856, and she received her Certificate of Freedom on 1 August 1864.¹⁰⁰ Her husband was George Leathley, a convict transported initially to Norfolk Island by the *Blundell* in 1844. A twenty-five-year-old blacksmith and shoeing-smith, he had been convicted of horsestealing in 1843 and was sentenced to transportation for life. On Norfolk Island, he had several offences but does not appear to have been overtly violent.¹⁰¹ Leathley arrived in Van Diemen's Land in April 1847, where his only offence while serving his sentence was in December 1847, when he disobeyed orders by attempting to take tobacco into the solitary cells. He received his ticket-of-leave in July 1854; his conditional pardon was approved in July

⁹⁸ Judith Allen, 'The invention of the pathological family: a historical study of family violence in N.S.W.', in Carol O'Donnell and Jan Craney (eds.) *Family Violence in Australia*, Melbourne, 1982, pp.1-27.

⁹⁹ AOT, CON 41/46 and CON 15/6 Catherine Mannon *Earl Grey* 1850 No.1092.

¹⁰⁰ AOT, CON 41/46 Catherine Mannon *Earl Grey* 1850 No.1092; AOT, RGD 37/12 1853 No.289: Manning/Leathley. For George Leathley, see AOT, CON 33/78 George 'Leathley' No.18187; CON 37/10 p.5628; CON 17/2 p.46.

¹⁰¹ AOT, CON 33/78: his offences were for disobedience, abusing his overseer, taking buckles from the blacksmith's shop, having tobacco in his possession, making signals to the chain gang, making [?] in the blacksmith's shop.

1856.¹⁰² Catherine (Mannon) and George Leathley had at least six children, between 1853 and 1862.¹⁰³

In 1866, George Leathley appeared in the Supreme Court in Hobart, where it was charged that he did ‘feloniously, wilfully, and with malice aforethought, kill and murder Elijah Round’.¹⁰⁴ Leathley, his wife, and Round had been drinking in the Cornish Mount in Barrack Street, where Round became excessively drunk. Leathley followed Round and a woman named Jane Thompson from the hotel to Leathley’s house, where he found them on a sofa in the front room. He then violently and repeatedly assaulted Round. Thompson was on the sofa, ‘very drunk, dead drunk’. In his defence, Leathley claimed that Round had fallen down dead and denied that he had ill-treated him: ‘they were all drunk together and a drunken man might have fallen down’.¹⁰⁵

Comments made in the reporting of the case, and in the courtroom, echo the words of the temperance reformers of the period, clearly blaming alcohol for crime and violence. The prevailing ideology about the pernicious effects of drink and its association with convictism was reflected in the reported court-room words of the Attorney-General, who noted that ‘the tragical occurrence was

¹⁰² AOT, CON 33/78 George ‘Leathley’ No.18187; CON 37/10 p.5628; CON 17/2 p.46.

¹⁰³ AOT, RGD 33/5 1853 Hobart No.2498: David Leathley; AOT, RGD 33/5 1855 Hobart No.1904: Anastasia Leathley; AOT, RGD 33/6 1856 Hobart No.1443: Sarah Leathley; AOT, RGD 33/7 1857 Hobart No.908: male Leathley; AOT, RGD 33/7 1859 Hobart No.2959: John Leathley; AOT, RGD 33/8 1862 Hobart No.4925: Catherine Leathley.

¹⁰⁴ *The Mercury* 25 June 1866. See also AOT, LC 247/32 (5 December 1865).

¹⁰⁵ *The Mercury* 25 June 1866. Leathley pleaded not guilty and defended himself.

another lamentable illustration of the effects of drink in this colony'.¹⁰⁶ The jury found Leathley guilty and the judge blamed drunkenness, telling Leathley:

you are the victim, another of the thousands of victims of that dreadful and disgraceful vice of drunkenness, which destroys the character, the prospects, and, in your case, forfeits life. Had you not indulged in that debasing vice, and had you kept to the orderly restraints which sobriety imposed, and not allowed yourself to be carried away by those vicious and bad passions which are generated by drink, it is my firm conviction that you would never have stood in the position you do now.¹⁰⁷

George Leathley was convicted of murder and sentenced to death; this was commuted to life imprisonment.¹⁰⁸ He was sent to Port Arthur, where he remained until 1876, when he was discharged upon a ticket-of-leave, having completed ten years of his term with good conduct.¹⁰⁹ It is difficult to ascertain his wife's role, if any, in the murder: one newspaper report stated that it was Catherine who invited the victim to go and lie down in their house, as he was feeling unwell.¹¹⁰

The insidious effect of alcohol on family life was a concern of temperance reformers, and social observers, particularly if the mother was an inebriate.¹¹¹ Little compassion was shown for the circumstances of Catherine Leathley when, in January 1866, she was brought before A.B. Jones, Esq., Stipendiary Magistrate, for disturbing the peace. The newspaper report of the case recognised that her

¹⁰⁶ *The Mercury* 25 June 1866.

¹⁰⁷ *The Mercury* 25 June 1866.

¹⁰⁸ *The Mercury* 25 June 1866.

¹⁰⁹ Although there is no evidence of a divorce between George Leathley and Catherine Mannon, George Leathley apparently remarried in 1882 at Triabunna: see AOT, RGD 37/41 1882 No.957: Curtain/Leathley. George Leathley, an English-born blacksmith aged 71, died of 'senile decay' on 23 June 1895 in Barrack Street, Hobart, and was buried in Sandy Bay: see AOT, RGD 35/14 1895 Hobart No.171: George Leathley; and TFHS Inc. Hobart Branch (compiler) *Undertakers of Hobart Vol. II 1885-1907 Index to Alex Clark & Son Funeral Records* Hobart, 2002, Book 4/271.

¹¹⁰ *The Mercury* 25 June 1866.

¹¹¹ For a discussion of the implications of drunken mothers, and the double standard which applied, see O'Brien, *Poverty's Prison*, p.84; Windschuttle, 'Women, class and temperance', pp.17-18.

husband was to take his trial at the present criminal sittings on a charge of murder in Barraek Street, but any propensity for sympathy that might have been shown was negated by the claim that Catherine had been drinking 'ever since her husband was taken to prison, and had totally neglected her helpless children, for whom it would be much better if she were sent to prison'.¹¹² These were prophetic words: Catherine Leathley was fined £2, and in default of payment, was committed to prison for two months, leaving her children with no-one to care for them.¹¹³ The children, as noted in Chapter Five, were eventually admitted to the Queen's Asylum for Destitute Children, also known as the Orphan School.¹¹⁴ From this point, the family as a unit seems to have disintegrated.

Although Catherine Leathley had no colonial offences recorded on her conduct record, from 1861, she frequently appeared in the lower courts charged with drink-related offences.¹¹⁵ In March 1861, she was charged with using obscene language on a public road at Sandy Bay, telling a police constable to 'kiss my bloody arse' while he was attempting to take a drunken man into custody.¹¹⁶ In May 1861, with another woman, she was charged with disturbing the public peace on a public road at Sandy Bay.¹¹⁷ In June 1861, and April 1863, she was charged with being 'drunk and incapable of taking care of herself on a public road at

¹¹² *The Mercury* 24 January 1866.

¹¹³ *The Mercury* 24 January 1866.

¹¹⁴ AOT, SWD 26/9.

¹¹⁵ AOT, CON 41/46 Catherine Mannon *Earl Grey* 1850 No.1092: Catherine Mannon was granted a ticket-of-leave on 15 August 1854. She was recommended for a conditional pardon on 11 September 1855; this was approved on 23 July 1856. She received her Certificate of Freedom on 1 August 1864.

¹¹⁶ AOT, LC 247/27 (13 March 1861). She was fined 5/- and ordered to pay costs of 1/- or, in default, 7 days solitary confinement.

¹¹⁷ AOT, LC 247/27 (14 May 1861). She was fined 5/- or, in default, 7 days' solitary confinement. The other woman was Ellen Conway, free by servitude.

Sandy Bay'.¹¹⁸ In November 1863, she was yet again charged with disturbing the public peace on a public road at Sandy Bay. The police constable testified:

I am a Constable of the Rural Police at Sandy Bay. I was on duty on the Sandy Bay Road about twenty minutes past two o'clock yesterday afternoon. I saw the Defendant Leathley there. She was clapping her hands and shouting out to the landlady of the Sandwich Islander public house. "Turn out my husband, by the Cross of God if you don't". She was nearly drunk with her hair all in disorder. She disturbed the public peace.¹¹⁹

A year later, she was again before the courts on a similar charge.¹²⁰ In May 1865, Catherine Leathley was charged with 'using obscene language in a public street'.¹²¹ In January 1866, after her husband's arrest, she was charged with disturbing the public peace in a public street and was sentenced to two months' imprisonment in the House of Correction or, in default, fined £2.¹²² In May 1866, with another woman named Ann Spencer, she was charged with disturbing the public peace.¹²³ She was again charged in August 1866.¹²⁴ Overall, she was charged ten times between 1861 and 1866.

Catherine (Mannon) Leathley spent her old age in difficult circumstances: when she was nearly seventy, she appeared before the Court of Petty Sessions at New Norfolk in April 1896: 'Upon complaint of Supt. of Police with being drunk and incapable of taking care of herself in a street in Town of New Norfolk on

¹¹⁸ AOT, LC 247/27 (24 June 1861); LC 247/27 (1 April 1863). She was fined 10/- or, in default, 24 hours' solitary confinement for both. The second offence took place in the morning.

¹¹⁹ AOT, LC 247/27 (16 November 1863): evidence of George Rogers, constable of the Rural Police.

¹²⁰ AOT, LC 247/27 (2 November 1864). She was fined 5/- or, in default, 7 days' solitary confinement.

¹²¹ AOT, LC 247/32 (12 May 1865). She was sentenced to 1 month in the House of Correction or, in default, fined £1.

¹²² AOT, LC 247/32 (23 January 1866).

¹²³ AOT, LC 247/32 (26 May 1866). Leathley was sentenced to 3 months in the House of Correction or, in default, a fine of £3. The other woman, Ann Spencer, was sentenced to 14 days in the House of Correction or, in default, a 10/- fine.

¹²⁴ AOT, LC 247/32 (18 August 1866). Leathley was sentenced to a fine of £3, or, in default, 3 months in the House of Correction.

Saturday night last'.¹²⁵ She was fined five shillings or, in default, forty-eight hours' solitary confinement.¹²⁶ Later that year, on 12 August 1896, she was again arrested at New Norfolk, for being 'idle and disorderly'.¹²⁷ To many, Catherine (Mannon) Leathley must have been an apt symbol of the association of convictism with drink and poverty, a strong argument for moral enlightenment and temperance and anti-transportation.¹²⁸ Her home and family life had been destroyed as the result of heavy drinking and associated violence.

Alcoholism caused problems not only for those who drank but also their families. In the Leathley family, the pervasiveness of alcohol-related adversity continued into the next generation, with at least two children also experiencing difficulties as a result of alcohol.¹²⁹ Similarly, alcohol had a dramatic impact on the life of Alice Julian and her family: not only was the crime for which Alice was sent to gaol in 1865 committed in a hotel but it was rum that was purchased with the counterfeit coin.¹³⁰ The eighteen-month-old daughter who accompanied Alice to gaol died there; and the daughter who was born in the gaol, according to a family member, lived 'a very sad life, alcohol getting the better of her'.¹³¹ Unlike Catherine (Mannon) Leathley's ignominious end, Alice (Julian) Walker came through

¹²⁵ AOT, POL 510/1/2 Catherine Leathley 13 April 1896.

¹²⁶ AOT, POL 510/1/2 Catherine Leathley 13 April 1896.

¹²⁷ AOT, POL 510/1/2 Catherine Leathley 12 August 1896.

¹²⁸ Kilner, 'Temperance and the Liquor Question', pp.93-94.

¹²⁹ Sharon Meyers, *personal communication*, 1 March 1998; AOT, SC 195/83 Inquest No.13560; George Leathley, a labourer, died on 11 May 1915 at the Bridge Hotel, Smithton. His inquest determined that he had died from asphyxia due to 'excessive drinking of alcohol'. A daughter, Sarah, died in prison in Hobart in the early hours of 8 August 1892: AOT, RGD 35/13 1892 Hobart No.1466: Sarah Leathley. This is indexed on the *Tasmanian Pioneer Index* as 'Seathley'.

¹³⁰ *The Mercury* 3 April 1867 p.2 col.5, p.3 cols.3-4; 10 May 1867 p.2 col.6; 3 July 1867 p.3 cols.2-3.

¹³¹ AOT, RGD 35/7 Hobart 1867 Hobart No.6859: Rosaline Mary Walker (15 July 1867); AOT, RGD 33/9 1867 Hobart No.9569: Amelia Walker (8 October 1867); Gordon Roberts, *personal communication* 15 July 1998.

adversity, and established a new life in Victoria. As noted in Chapter Five, she was the main breadwinner for the family, running a lying-in hospital in Melbourne. She also delivered many of her grandchildren and great-grandchildren, and established a strong family network.¹³²

Habitual drunkards were classified as the undeserving poor, 'a group who through their own moral failing refused to help themselves and spent any assistance they received on more drink'.¹³³ Alcoholism left women extremely vulnerable. Once they were perceived as inebriates, it was extremely difficult for them to receive any charitable assistance. As Garton stated, 'The basis of nineteenth century philanthropic, police and medical attitudes to drunkenness was the belief that it was a sin or vice. A sin was considered a self-inflicted weakness that required punishment'.¹³⁴ While all forms of drunkenness were a cause of concern to reformers, police, magistrates and doctors, transient drunkenness could be dealt with as a crime or form of mental inadequacy. Habitual drunkenness, on the other hand, was a significant issue, and was believed to be responsible for family disintegration and moral decay.¹³⁵ The link between philanthropy and temperance was strong, and coloured responses to requests for charitable assistance.¹³⁶ As discussed in Chapter Five, when Bridget Dooling requested assistance in 1864, because her husband was in hospital, her request was received favourably because

¹³² Gordon Roberts, *personal communication* 15 July 1998; Maree Holden, *personal communication* 22 September 2001.

¹³³ Garton, 'Once a drunkard', p.40. Garton also outlined the conceptual transition of habitual drunkenness from sin to disease.

¹³⁴ Garton, 'Once a drunkard', p.40.

¹³⁵ Garton, 'Once a drunkard', p.40.

¹³⁶ Windschuttle, 'Women, class and temperance', pp.5-25.

of her good character.¹³⁷ She was considered 'a deserving and well conducted person'.¹³⁸ A later request for assistance, following her remarriage after the death of her husband and his subsequent desertion, was treated vastly differently, as a result of her new husband's reputation for drunken profligacy and idleness. Her request for the charitable or government assistance and admission of some of the children to the Orphan School was coldly received. She was described as indiscrete and wanton, and was criticised for marrying an 'an incorrigible vagabond'.¹³⁹

To summarise, for many of the deliberate arsonists, life in colonial Tasmania was characterised by poverty and economic vulnerability, exacerbated by the loss of a breadwinner, through death, incapacitation, institutionalisation or imprisonment. For some, like Catherine Leathley, excessive drinking compounded the problems. Survival for some of the arsonists, like Bridget Dooling and Alice Julian, depended upon their ability to negotiate with those in control. Bridget Dooling bargained with the authorities to achieve what she believed was the best outcome for her and her children. Alice Julian survived her colonial prison sentence, despite the death of her daughter, and went on to make a fresh start in Victoria.

Outcomes: 'offenders, lunatics and paupers'¹⁴⁰

Reformation was at the heart of the transportation system. Concern with reformation and recidivism has formed part of the debate about convict women.

¹³⁷ AOT, CON 41/24 Bridget Dooling *Australasia* 1849 No.682; AOT, SWD 26/7 1864: Murphy.

¹³⁸ AOT, SWD 26/7 28 April 1864: Murphy.

¹³⁹ AOT, SWD 26/7 1864: Murphy.

¹⁴⁰ David Fitzpatrick, 'Irish Immigration to Australia 1840-1914', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol. 2, No.3, 1989, p.58.

Colonial offences, or the lack of them, have been taken as a measure of success of the individual convicts and the transportation system.

Fitzpatrick, writing of Irish migrants to Australia generally, argued that 'Irish settlers in Australia did not win access to the good life without social cost' – for many there was personal alienation, often associated with crime, lunacy or indigence.¹⁴¹ Irish immigrants were 'consistently over-represented' in the official returns of lunatics, paupers and offenders, particularly in such categories as vagrancy, breach of the peace, and drunken or disorderly behaviour.¹⁴² Yet preliminary evidence from lower court and institutional records suggests that, unlike Irish immigrants, the deliberate arsonists were not over-represented in these categories – even for those offences such as drunkenness, disorderly behaviour, and assault sometimes categorized as 'Irish disorders'.¹⁴³

Crime as a survival strategy

Only one woman, Johanna Walsh admitted to living by thieving in Ireland, for six months only.¹⁴⁴ She also admitted to one month and two months' imprisonment for breaking glass. This pattern did not continue in the colony: Johanna Walsh was initially stationed on the *Anson* and was admitted to the 3rd Class on 4

¹⁴¹ Fitzpatrick, 'Irish Immigration to Australia 1840-1914', p.58.

¹⁴² Fitzpatrick, 'Irish Immigration to Australia 1840-1914', p.58. This was true not just for Australia but also for Britain, Canada and the United States. Nearly 1/5 of inmates of insane asylums in Victoria and NSW (1900-1) were Irish-born, while the Irish of South Australia 4 decades earlier are known to have drawn disproportionately upon out-door relief. Numerous returns of arrests, convictions and prison admissions show an excess of Irish immigrants, accounting for nearly 1/4 of all arrests in NSW as late as 1889 (when only 1/15 of the population was Irish-born). See also M. MacGinley, 'Irish Migration in Queensland: an Overview', in John O'Brien and Pauric Travers (eds.), *The Irish Emigrant Experience in Australia*, Dublin, 1991, p.115; Patrick O'Farrell, *The Irish in Australia*, Kensington NSW, 1987, pp.169-70.

¹⁴³ Roger Swift, 'The historiography of the Irish in nineteenth century Britain', in Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume 2. The Irish in the New Communities*, London, 1992, p.64.

¹⁴⁴ AOT, CON 41/22 and CON 15/5 Johanna Walsh *Maria* (2) 1849 No.795.

December 1849. On 18 June 1850, assigned to Robertson, Johanna Walsh was charged with larceny under £5. She was returned to the government, no prosecutor appearing.

Once the deliberate arsonists were 'on their own hands', and no longer sustained by the convict system, they were acutely vulnerable to poverty, exacerbated by economic circumstance, their lack of skills and, in some instances, alcoholism. In order to survive, they employed a number of strategies, including marriage, work and reliance on State and charitable aid, and, in doing so, fought for control of their lives and their conditions.

Colonial sentences

Punishment and control were important strategies in shaping a compliant colonial workforce.¹⁴⁵ David Neal likened convict punishment to a system of Chinese boxes, with increasingly severe measures.¹⁴⁶ The ticket-of-leave was used as a particularly effective form of control because it was valued by convicts for the freedom it allowed.¹⁴⁷ Deliberate arsonist Margaret Stafford was refused a ticket-of-leave in 1853 until she paid 6/8 for breaking the windows at Ross, presumably at the Female Factory.¹⁴⁸ Convicts used the legal system to fight back, through

¹⁴⁵ BPP, 'Regulations for the Religious and Moral instruction of Convicts in Van Diemen's Land', Convict Department, 1st December 1843, Correspondence between the Secretary of State and the Governor of Van Diemen's Land on the Subject of Convict Discipline, 1845, 78, Vol. XXXV, pp.21-22; BPP, Correspondence between the Secretary of State and the Governor of Van Diemen's Land on the Subject of Convict Discipline, 1845, 659, Vol. XXXVII, p.14.

¹⁴⁶ David Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales*, Melbourne, 1992, pp.49-53.

¹⁴⁷ Neal, *The Rule of Law*, p.46.

¹⁴⁸ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

their knowledge of the law and their rights to take their masters to court.¹⁴⁹ Writing of early New South Wales, Neal argued that 'Law became the means of expressing and contesting the differing conceptions of social and economic relations in the colony'.¹⁵⁰

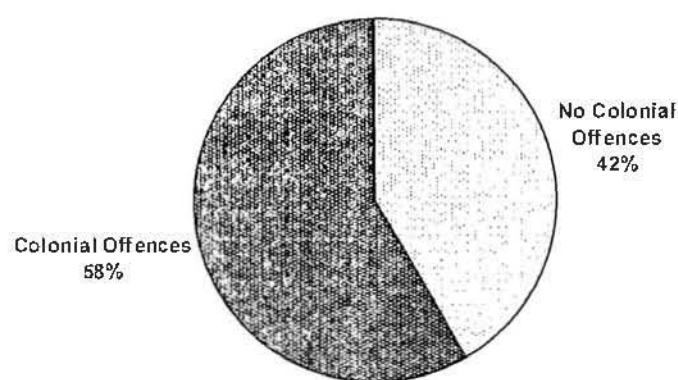


Figure 46: Colonial offences under sentence of deliberate arsonists from conduct record [n=79].

Because of gaps in surviving records and the inconsistency in later record-keeping, where a woman was only sometimes identified by her ship of arrival and could appear under a variety of names, for this thesis, colonial sentences have been tallied only from the woman's conduct record. This sometimes gives a false indication of colonial sentences: Catherine (Mannon) Leathley had a clean

¹⁴⁹ Neal, *The Rule of Law*, p.24. See also Paula Byrne, 'Women and the Criminal Law: Sydney 1810-1821,' *Push from the Bush*, Vol. 21, No.2 pp.2-19; Alan Atkinson, 'Four Patterns of Convict Protest', *Labour History*, Vol.37, 1979, p.29.

¹⁵⁰ Neal, *The Rule of Law*, p.124.

conduct sheet, but after she received her conditional pardon, she frequently appeared in the lower courts.¹⁵¹ Post-sentence offences, usually of the more serious class, sometimes appeared on conduct sheets – Alice Julian’s conduct record, for example, included her charge of uttering base coin some years after she was emancipated.¹⁵²

As depicted in Figure 46, approximately 42 per cent of the deliberate arsonists had no colonial offences recorded on their conduct sheets.¹⁵³ Several had only one minor offence: Bridget Delaney was sentenced to fourteen days’ hard labour for being absent, as was Ellen Fleming. Ann Blake received eight months’ hard labour for being absent, a seemingly harsh punishment for her only offence.¹⁵⁴ Payne calculated that 35.4 per cent of convict women in his probation period study had no colonial offences and a further 9.5 per cent had ‘rare lapses’.¹⁵⁵

Comparison between studies of colonial offenders is difficult because there is no consistent categorisation. Payne devised nine categories of colonial offences: insubordination (which included ‘misconduct’; ‘neglect of duty’; ‘obscene language’; refusing to work and using threatening language’; and taking rum to her master’s premises); theft; drunkenness; absconding; being absent without leave; prostitution; disturbing the peace; sexual offences; and other. The last

¹⁵¹ AOT, CON 41/46 Catherine Mannon *Earl Grey* 1850 No.1092: Catherine Mannon was granted a ticket-of-leave on 15 August 1854. She was recommended for a conditional pardon on 11 September 1855; this was approved on 23 July 1856. She received her Certificate of Freedom on 1 August 1864.

¹⁵² AOT, CON 41/35 Alice Julian *Martin Luther* 1852 No.443. This has not been included in the calculation of colonial sentences.

¹⁵³ All of the deliberate arsonists on the *Australasia* 1849, the *Duke of Cornwall* 1850 and the *John William Dare* 1850 had at least one colonial offence while under sentence.

¹⁵⁴ AOT, CON 41/30 Ann Blake *Blackfriar* 1851 No.1106. She died in 1855.

¹⁵⁵ Payne, ‘Female Convicts’, p.65.

group included possession of a tobacco pipe; 'falsely representing herself to be free'; being in a public house during divine service; concealing a bottle of rum; 'misconduct in marrying' and 'feigning sickness'.¹⁵⁶ Reid, studying an earlier period, devised a similar but more detailed list with thirty-one categories.¹⁵⁷

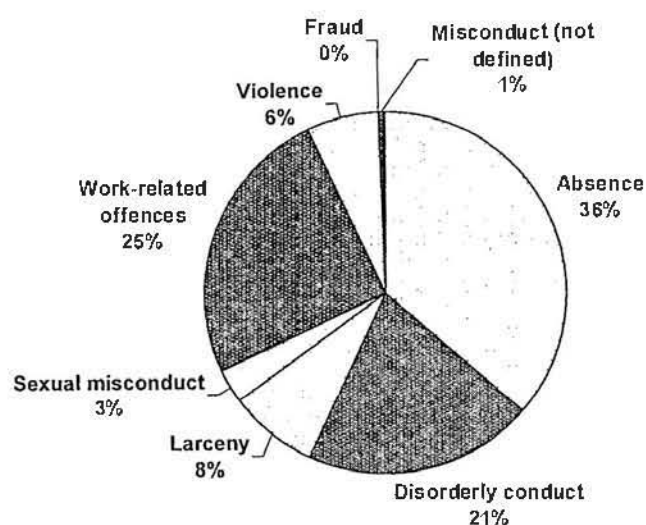


Figure 47: Colonial offences of deliberate arsonists (n=160).

As demonstrated by Figure 47, overwhelmingly the largest number of colonial offences among the deliberate arsonists related to being absent from work or their authorised place of residence. The second largest category was work-related offences, followed by disorderly conduct, which included drink-related offences.

¹⁵⁶ Payne, 'Female Convicts', pp.63-64.

¹⁵⁷ Kirsty Reid, ' "Contumacious, Ungovernable and Incurable": Convict Women and Workplace Resistance, Van Diemen's Land, 1820-1839', in Ian Duffield and James Bradley (eds.), *Representing Convicts. New Perspectives on Convict Forced Labour Migration*, London, 1997, p.109.

Seven deliberate arsonists were charged with absconding. One absconder was not caught and started a new life in New South Wales.¹⁵⁸ Another may have done the same.¹⁵⁹ Eliza Guilfoyle, a frequent absconder, remained at large between October 1858 and April 1862, during which time she had at least one child and may have married under a false name.¹⁶⁰

Few women were charged with offences in the sexual misconduct category. Overall, there were only five of these offences. In some instances, it is impossible to be sure of the nature of the misconduct. Ann Daly was punished with being absent from her employer's service and being found in Mr Green's stable on a Saturday night.¹⁶¹ Days earlier she had appeared in the Campbell Town Lower Court and was remanded for 'misconduct' but no details of the offence were recorded.¹⁶² Given the pattern of charges against her, she may have just as easily been shirking her duties as engaging in 'sexual misconduct'. Margaret Stafford provides a clearer example of sexual offences: while an assigned servant, she received six months' hard labour at the Female House of Correction for being found in the men's bedroom for an improper purpose.¹⁶³ Elizabeth Coghlan, also an assigned servant, was given six months' hard labour for admitting a man into

¹⁵⁸ AOT, CON 41/26 Mary Nowlan *Earl Grey* 1850 No.199.

¹⁵⁹ AOT, CON 41/26 and CON 15/6 Maria Collister *Earl Grey* 1850 No.1077. See also Martyn Killion, *personal correspondence*, 21 April 2004.

¹⁶⁰ In 1862, Eliza appeared in court as 'Eliza Guilfoyle *Australia* uxor Thomas Green': AOT, LC 493/3 Bothwell; AOT, CON 41/24 and CON 15/6 Eliza Guilfoyle *Australasia* 1849 No.518; AOT, RGD 33/37 1859 Bothwell No.51: James Green (27 November 1859); AOT, RGD 37/17 1858 Bothwell No.3: Warren/Green (9 October 1858).

¹⁶¹ AOT, LC 83/11 Campbell Town (12 January 1852) p.85. She pleaded guilty and was sentenced to 9 months' hard labour at the Ross Factory.

¹⁶² AOT, LC 83/11 Campbell Town.

¹⁶³ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

her bedroom.¹⁶⁴ Mary Dunne, who had recently served two months' imprisonment with hard labour for being drunk, was given six months' hard labour in the House of Correction for having two men on her master's premises without authority and sending her master's daughter for alcohol.¹⁶⁵ Mary Hennessey, assigned in the Brighton district, was imprisoned for nine months with hard labour for being absent without leave, and being in the bush with a man.¹⁶⁶ Catherine Fitzgerald, found in bed with another woman at the Ross Factory, received six months' hard labour.¹⁶⁷ There is no evidence that the deliberate arsonists conformed either to the stereotyped image of the convict women as a whore or Robson's disparaging portrayal of persistent 'indiscriminate love-making' indicating immoral living.¹⁶⁸ Payne's suggestion that sexual misconduct offences 'savoured of some condition of sexual freedom'¹⁶⁹ rather than a serious crime is appropriate. The handful of deliberate arsonists charged with this type of offence were possibly simply exerting some form of control in their lives, by choosing the pattern of their sexual behaviour.

Eight women were charged with insolence. Again, this was a category of offence which was not essentially criminal. Often insolence occurred in conjunction with a work-related offence.¹⁷⁰ Margaret Foley, for example, was punished twice for insolence, both times combined with offences related to her duties. In 1853, she

¹⁶⁴ AOT, CON 41/22 Elizabeth Coghlan *Maria* (2) 1849 No.966.

¹⁶⁵ AOT, CON 41/30 Mary Dunne *Blackfriar* 1851 No.762.

¹⁶⁶ AOT, CON 41/35 Mary Hennessey *Martin Luther* No.950.

¹⁶⁷ AOT, CON 41/36 Catherine Fitzgerald *Midlothian* 1853 No.492.

¹⁶⁸ Robson, *The Convict Settlers of Australia*, Melbourne, 1965, pp.134-135, 145.

¹⁶⁹ Payne, 'Female Convicts', p.63.

¹⁷⁰ See AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903 (disobedience of orders and insolence); CON 41/20 Mary Paid *Lord Auckland* (3) 1849 No.391 (insolence and refusing to work); CON 41/35 Catherine Hayes *Martin Luther* No.947 (insolence and refusing to work).

received eight months' hard labour for 'refusing to work and insolence' and in 1856, as a ticket-of-leave holder, she received three days' solitary confinement for 'insolence and neglect of duty'. Not surprisingly, Foley had numerous employers while under sentence.¹⁷¹ She was recommended for a conditional pardon in 1856, but before this was approved she was again before the courts, this time charged by her mistress with 'misconduct in using threatening language'.¹⁷² The court heard evidence of Foley's insolent attitude and language from her master, John Davies or Davis:

Re. Foley: John Davies, sworn, saith the prisoner is my Servant. In consequence of what I heard from Mrs Davies on the morning of the 18th instant I went to the prisoner and asked her why she did not dress herself and take the child as she had been ordered. She said that she would not stir a bloody foot and that the clothes she had on were good enough to nurse any persons brats in. She said that if her mistress followed her giving her orders she'd knock her guts in. She was extremely violent. I give her into custody.¹⁷³

A fellow servant, Jane Prentice, also testified:

Jane Prentice: I heard Mrs Davies order to go and dress. You said you would not. She said she wouldn't spoil her clothes, nursing his brats. I heard her making a noise but I cannot report what she said. I was not present at all. I heard a noise in the hall. You called me. The prisoner was stripping when I came – She was very violent. You stood [sentry] over her.¹⁷⁴

Margaret Foley pleaded not guilty but was sentenced to two months' imprisonment with hard labour.¹⁷⁵ Female convicts assigned as domestic servants were well-positioned to cause household disruption. In doing so, they challenged

¹⁷¹ AOT, CON 41/30 Margaret Foley *Blackfriar* No.486. She was also punished for disobedience of orders (1851), refusing to work (1852) and work-related misconduct (1856).

¹⁷² AOT, CON 41/30 Margaret Foley *Blackfriar* No.486; AOT, LC 247/27 Hobart (20–21 October 1856).

¹⁷³ AOT, LC 247/27 Hobart (20 October 1856).

¹⁷⁴ AOT, LC 247/27 Hobart (21 October 1856).

¹⁷⁵ AOT, CON 41/30 Margaret Foley *Blackfriar* No.486; AOT, LC 247/27 (20 October 1856).

the twin relationships of power and control and determined fundamental work processes.¹⁷⁶

In November 1853, Catherine Hayes received fourteen days' imprisonment in the cells for disobedience of orders. In April 1854, she was given the same sentence for insolence and refusing to work. This may have been related to her pregnancy: in June 1854, she gave birth to an illegitimate son in the Female House of Correction in Hobart.¹⁷⁷ Throughout her sentence, she appears to have remained with one employer.¹⁷⁸ While pregnant and again immediately after the birth of her child, she applied to marry the man who was eventually to become her husband in October 1855.¹⁷⁹

Catherine Hayes was not the only deliberate arsonist who was charged while pregnant. In February 1851, Bridget Scanlan appeared in the Hobart Police Court charged by her mistress with using indecent language, assault and being absent from her service. The charge was dropped when no prosecutor appeared, and Bridget was returned to service.¹⁸⁰ A month later, Bridget again appeared in court, charged by her master with being absent without leave, between 5 am and 6 am, leaving the front door of his house open and his premises unprotected. She pleaded guilty only to being absent without leave and was sentenced to three

¹⁷⁶ On this point, see Reid, 'Contumacious, Ungovernable and Incurable', pp.108-118. See also Joseph M. Butwin, 'Seditious Laughter' *Radical History Review*, Vol.18, Fall 1978, pp.17-34.

¹⁷⁷ AOT, RGD 33/5 1854 Hobart No.1065: Thomas Hayes.

¹⁷⁸ AOT, CON 41/35 Catherine Hayes *Martin Luther* No.947.

¹⁷⁹ AOT, CON 52/7 p.175: Hayes/Handley; CON 52/7 p.176: Hayes/Handley; CON 52/7 p.179: Hays/Handley; CON 52/7 p.175: Hayes/Handley; CON 52/7 p.176: Hayes/Handley; CON 52/7 p.183: Hayes/Handley. For the marriage, see AOT, RGD 37/14 1855 (Hobart) No.364: Hayes/Hanley.

¹⁸⁰ AOT, LC 251/2 Hobart 7 February 1851 (Bridget Scanlon).

months' hard labour at Cascades Female Factory.¹⁸¹ Four months later, Bridget gave birth to a daughter at the Female Factory.¹⁸² If Bridget was seeking the companionship of other women and the protection of the Female Factory for the duration of her pregnancy, she found a particularly effective way of achieving it. The following year, Bridget was sentenced to twelve months' hard labour in the Cascades Female Factory for absconding: eight months later she gave birth to a son there.¹⁸³

Only one deliberate arsonist, Margaret Stafford, was charged with the more serious charge of insubordination. On 7 June 1851, at Ross, she was sentenced to fifteen days in the cells for assault, and on the same date, eighteen months' hard labour for insubordination.¹⁸⁴

Some of the behavioural offences committed by the deliberate arsonists took place in the Ross Female Factory.¹⁸⁵ Ann Tuohy was charged twice with fighting at Ross, as well as striking a constable in the execution of his duty and ill-treating a fellow prisoner.¹⁸⁶ Margaret Butler, while at Ross, was charged with 'quarrelling and making a great noise' and 'quarrelling in the nursery'.¹⁸⁷ As noted previously in this chapter, Margaret Stafford was punished for breaking the windows at Ross, presumably at the Female Factory.¹⁸⁸

¹⁸¹ AOT, LC 251/2 Hobart 13 March 1851 (Bridget Scanlon).

¹⁸² AOT, NS 19052/8 p.143 (Margaret Scanlon).

¹⁸³ AOT, LC 251/2 Hobart 11 and 14 December 1852 (Bridget Scanlon).

¹⁸⁴ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

¹⁸⁵ Crimes recorded at Ross seem to be recorded in more detail than elsewhere.

¹⁸⁶ AOT, CON 41/12 Ann Tuohy *Arabian* 1847 No.286.

¹⁸⁷ AOT, CON 41/26 Margaret Butler *Earl Grey* 1850 No.1048. Her son, Michael, was born at the Ross Factory: AOT, RGD 33/30 1852 Campbell Town No.91: Michael Butler (13 April 1852).

¹⁸⁸ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829.

All the food-related offences recorded against the deliberate arsonists also occurred in the Ross Female Factory. In 1849, Ann Tuohy was charged with concealing potatoes and flour and, four months later, with having 'a ration of pudding and sugar of a child improperly in her possession.'¹⁸⁹ In 1852, Margaret Stafford was punished for 'misappropriating the children's food' and three days later, for having a quantity of sugar concealed on her person.¹⁹⁰

Elizabeth Coghlan was the only deliberate arsonist to be charged with an arson-related offence in the colony.¹⁹¹ In 1851, she was sentenced to six months' hard labour in the Cascades Female Factory for unlawfully and maliciously trying to set fire to her master's house with intent to destroy the same.¹⁹² Two months later, she gave birth to an illegitimate child at the Female House of Correction, Hobart.¹⁹³ The two events were possibly connected.

A handful of women, including some who had a clean convict conduct record, were charged with offences after they were emancipated. Catharine Conway had one colonial offence, absconding in 1852.¹⁹⁴ In 1853, she married; shortly

¹⁸⁹ AOT, CON 41/12 Ann Tuohy *Arabian* 1847 No.286. Tuohy's period of hard labour was extended 4 months for the flour offence and 3 months for the pudding and sugar.

¹⁹⁰ AOT, CON 41/20 Margaret Stafford *Lord Auckland* (3) 1849 No.829. Stafford received an additional month's hard labour for the children's food and was sent to the cells for 7 days for the sugar.

¹⁹¹ AOT, CON 41/22 and CON 15/5 Elizabeth Coghlan *Maria* (2) 1849 No.966.

¹⁹² See also *Hobart Town Advertiser* 1 April 1851 p.4 col.5. She had earlier been charged, in September 1850, while assigned to Bowden, with larceny under £5 but was discharged and returned to the government, and was sent to Cascades Female Factory. She was not allowed to enter service in the district of Hobart.

¹⁹³ AOT, RGD 33/4 1851 Hobart No.521: Julia 'Coughlin' (20 June 1851). The child died on 16 February 1852: AOT, RGD 35/3 1852 Hobart No.1295: Julia Coghlan (16 February 1852).

¹⁹⁴ AOT, CON 41/30 and CON 15/7 Catharine Conway *Blackfriar* 1851 No.1151.

afterwards, her husband died and she remarried the following year.¹⁹⁵ In 1855, she not only gave birth to a son, who died aged five weeks, but she was widowed for the second time.¹⁹⁶ The next record located for her was in 1858, when she was granted a conditional pardon. In 1864, she may have been convicted on a minor charge: *The Mercury* noted that ‘Catherine Poole, an old woman, was fined 10/-, with the alternative of a months’ imprisonment for making use of bad language in public’.¹⁹⁷ In 1872, as Catherine Poole, Catharine Conway was tried in the Supreme Court, Hobart Town, for perjury. She received one year’s imprisonment.¹⁹⁸ According to *The Mercury*, Catherine Poole committed ‘wilful and corrupt perjury’ at Kempton, following an altercation with some schoolboys, who, she alleged, had been killing her fowls. During the dispute, the schoolmaster at Green Ponds, Thomas Wright, intervened. Catherine Poole claimed that Wright struck her twice with his fist and knocked her down. This was the basis of the perjury charge. The jury’s guilty verdict was accompanied by a strong recommendation to mercy ‘on account of her family’.¹⁹⁹

Catherine Connors had one minor colonial offence while serving her sentence – seven days in the cells for disobedience of orders – and received her Certificate of

¹⁹⁵ AOT, RGD 37/12 1853 Hobart No.561: Conway/Long (19 May 1853); AOT, RGD 35/22 1853 Richmond No.151: Maurice Long (10 October 1853); AOT, RGD 37/13 1854 Hobart No.368: Conway/Poole (22 May 1854).

¹⁹⁶ AOT, RGD 33/6 1855 Hobart No.171: male Poole (22 June 1855); AOT, RGD 35/5 1855 Hobart No.427: Thomas Poole (4 December 1855).

¹⁹⁷ *The Mercury* 26 July 1864 p.3 col.5 (Police Court). This may have been another woman of the same name: see Trudy Cowley, *A Drift of Derwent Ducks*, forthcoming, for details of Catharine (Butler) Poole and AOT, CON 41/24 Catherine Poole *Australasia* 1849.

¹⁹⁸ AOT, CON 41/30 Catharine Conway *Blackfriar* 1851 No.1151.

¹⁹⁹ *The Mercury* 12 July 1872 p.2 cols. 5-6. Catherine Poole had at least 2 children to John Hunter, a shoemaker: see AOT, RGD 33/45 1868 Green Ponds No.620: Catharine Hunter (27 December 1867); AOT, RGD 33/47 1869 Green Ponds No.614: William Hunter (1 June 1869). Catherine Poole later married John Hunter: see AOT, RGD 37/1873 Green Ponds No.136: Poole/Hunter (13 October 1873).

Freedom in 1855.²⁰⁰ She married in 1853 but no detail of her married life has been uncovered.²⁰¹ However, according to her conduct record, in September 1865, in Hobart, Catherine Connors was sentenced to four months' hard labour for stealing three shillings. The newspaper account of her crime reveals that she was tried as Catherine 'Connelly' and that she had stolen money from a widowed inmate of the Cascades Invalid Dépôt. She strongly denied the charge. As she had no previous conviction, the Bench sentenced her to four months' imprisonment with hard labour.²⁰² In April 1877, Catherine 'Conolly' *Lord Auckland* was one of a number of prisoners at the Female House of Correction at Cascades Gaol who were removed to the Campbell Street Gaol. She had a six-year-old daughter, Annie 'Connolly'. She was discharged in May 1877.²⁰³ There was no woman named Catherine Conolly (or variants) on the *Lord Auckland* and the woman sent to the gaol was most likely Catherine Connors.

As noted elsewhere, Alice (Julian) Walker was imprisoned for eight months in the Cascades Female Factory, after she was found guilty of uttering counterfeit coin.²⁰⁴ This was in 1867, well after she had served her sentence.

Perceptions of convict women, including the deliberate arsonists, as recidivist fail to factor the scrutiny to which their lives were subjected. The role of the police reports in determining access to government and private assistance has already

²⁰⁰ AOT, CON 41/20 Catherine Connors *Lord Auckland* (3) 1849 No.934; AOT, LC 251/2 Hobart (27 February 1850).

²⁰¹ AOT, RGD 37/12 1853 Hobart No.813: Connors/Whitehouse (31 October 1853).

²⁰² *The Mercury* 13 September 1865 p.3 col.1.

²⁰³ AOT, GD 41/1.

²⁰⁴ *The Mercury* 3 April 1867 p.2 col.5, p.3 cols.3-4; 10 May 1867 p.2 col.6; 3 July 1867 p.3 cols.2-3.

been noted. Police intervention in daily lives and recreational activities of the working classes worked as a form of social control, encouraging acquiescence.²⁰⁵

John West, writing of the assignment period in Van Diemen's Land, commented that

The police constables, mostly prisoners of the crown, were selected from each ship to assist the recognition of their fellow prisoners, and they were rewarded for every runaway they arrested. They often shortened their own sentence by procuring the conviction of others; often too, they obtained considerable sums, and even instant liberty by the discovery of an outlaw. They were acute, expert, and, we are told by Arthur, vigilant beyond all men he ever knew. They were objects of fear and devastation.²⁰⁶

Police constables were part of a complex system of surveillance, which also included magistrates, overseers, free settlers, soldiers and fellow-convicts.²⁰⁷ Not only did the courts occupy a pivotal political role, but the exercise of power on an everyday basis depended on the magistrates and their subordinates, the police.²⁰⁸

Negotiating this was crucial to convict success.

Female Factories and Gaols

Many of the women who re-offended were institutionalised in one of the colony's female factories.²⁰⁹ Women were sent to a female factory, also known as a female

²⁰⁵ Sturma, 'Police and Drunkards', p.53. See also Robert D. Storch, 'The Policeman as Domestic Missionary: Urban Discipline and Popular Culture in Northern England, 1850-1880', *Journal of Social History*, Vol.9, June 1976, pp.481, 502-8; Wilbur R. Miller, 'Police Authority in London and New York City 1830-1870', *Journal of Social History*, Vol.8, Winter 1975, pp.92-3. See also Hazel King 'Some Aspects of Police Administration in New South Wales, 1825-1851', *JRAHS*, Vol.42, Part 5, 1956, pp.205-230. See also Stefan Petrow, 'Policing in a Penal Colony: Governor George Arthur's System of Police in Van Diemen's Land, 1826-1836', *Law and History Review*, Vol.18, 2000, pp.351-395; and Stefan Petrow, 'After Arthur: Policing in Van Diemen's Land 1837-1846' in M. Enders and B. Dupont (eds.), *Policing in the Lucky Country*, Sydney, 2001, pp.176-198.

²⁰⁶ John West, *The History of Tasmania*, Angus and Robertson edition, Sydney 1971, p.436. In the probation period, police constables were usually recruited as ticket-of-leave holders: see Patrick Howard, *To Hell or to Hobart. A New Insight into Irish Convict History*, Kenthurst, NSW, 1994, p.145.

²⁰⁷ Neal, *The Rule of Law*, p.43.

²⁰⁸ Neal, *The Rule of Law*, pp.63-83, 115-140.

²⁰⁹ There were four main female factories: at the Cascades in Hobart, Launceston, George Town and Ross. Later, the factories were used as gaols, also known as Female Houses of Correction:

house of correction, for secondary punishment for a variety of crimes or work-related misconduct, including absconding from service, insolence to a master or mistress, and drunkenness. The female factories traditionally have been interpreted as a place of punishment and social control,²¹⁰ but increasingly historians are construing them as places where women strategically and subtly challenged power relationships and exercised agency.²¹¹

A distinctive sub-culture formed within the Factories. Daniels suggested that the factories were places of refuge, fulfilling a social role: 'the factories provided companionship, a place where they could mix with women of their own class, a place where they could be reunited with shipmates and exchange information

the Cascades Female Factory, for example, was the Cascades Gaol from 1856-1877. See Tony Rayner, *Historical Survey of the Female Factory Historic Site Cascades Hobart, National Parks and Wildlife Service Tasmania Occasional Paper No.3*, April 1981; Tony Rayner, *female factory, female convicts*, Dover, Tas., 2005; Kay Daniels, *Convict Women*, St Leonards, 1988, esp. Ch.5; Eleanor Conlin Casella, 'Archaeology of the Ross Female Factory: Female Incarceration in Van Diemen's Land, Australia. Report prepared for the Cultural Heritage Branch (DPIWE, Tasmania), the Queen Victoria Museum and Art Gallery and the Tasmanian Wool Centre of Ross', *Records of the Queen Victoria Museum*, No.108, 2002. See also G. R. Lennox, 'A Private and Confidential Despatch of Eardley-Wilmot: Implications, Comparisons and Associations Concerning the Probation System for Convict Women', *THRAPP*, Vol.29, No.2, June 1982, pp.80-92.

²¹⁰ Laurel May Heath, 'The Female Convict Factories of New South Wales and Van Diemen's Land: An Examination of their Role in the Control, Punishment and Reformation of Prisoners between 1804 and 1854', unpublished M.A. Thesis, ANU, 1978; Annette Salt, *These Outcast Women: The Parramatta Female Factory 1821-1848*, Sydney, 1984; Hilary Weatherburn, 'The Female Factory' in Judy Mackinolty and Heather Radi (eds.), *In Pursuit of Justice. Australian Women and the Law 1788-1979*, Sydney, 1979, pp.18-30; Daniels, *Convict Women*, 1984; Marian Aveling, 'Bending the Bars. Convict Women and the State' in Kay Saunders and Raymond Evans (eds.) *Gender Relations in Australia. Domination and Negotiation*, Sydney, 1992, pp.144-157; Anne Bartlett, 'The Launceston Female Factory', *THRAPP*, Vol.41, No.2, pp.114-124.

²¹¹ See, for example, Kay Daniels, 'The Flash Mob: Rebellion, Rough Culture and Sexuality in the Female Factories of Van Diemen's Land', *Australian Feminist Studies*, No.18, Summer 1993, pp.133-150; Damousi, *Depraved and Disorderly*; Deborah Oxley, *Convict Maids: the forced migration of convict women to Australia*, Melbourne, 1996; Kirsty M. Reid, 'Work, Sexuality and Resistance: The Convict Women of Van Diemen's Land, 1820-1839', unpublished Ph.D. Thesis, University of Edinburgh, 1995; Kristine McCabe, 'Discipline and Punishment: Female Convicts on the Hunter River, 1830-1840', *Journal of Australian Colonial History*, Vol.1, No.1, 1999, pp.38-61; Casella, 'Ross Female Factory'.

which enabled them to survive more easily when they were released'.²¹² There is no evidence, however, that the women used the factory as a 'marriage bureau', as was the case at the Female Factory at Parramatta.²¹³

A typical pattern of incarceration for the deliberate arsonists was that exhibited by Mary Madigan, who was in and out of the Female Factory in Launceston, during her sentence and after her marriage and the birth of her first child. In March 1850, Mary Madigan and John Slater applied for permission to marry but the following day Mary was sentenced to six weeks' hard labour in the Launceston Female Factory for being absent without leave.²¹⁴ While there, she spent eight days in the cells for disobeying orders.²¹⁵ In June 1850, Mary Madigan and William Hutchins successfully applied for permission to marry but they did not marry until the following year.²¹⁶ In August 1850, Mary was sentenced to three months' hard labour in the Factory in Launceston for disobedience of orders and insolence.²¹⁷ Three weeks after she was married, Mary was given two months' hard labour in the Launceston Female Factory for being 'absent from her authorised abode'.²¹⁸ Her first child, William, was born in March 1852 in Launceston.²¹⁹ A year later, in March 1853, she was again in the Launceston Female Factory. On 29 March 1853, her application for a ticket-of-leave was refused. On 14 April 1853, she

²¹² Daniels, *Convict Women*, p.133.

²¹³ See Salt, *These Outcast Women*, pp.44, 80, 120; Daniels, *Convict Women*, p.107; Atkinson, 'Marriage and Distance', p.67.

²¹⁴ AOT, CON 52/3 p.411: Madigan/Slater; AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903.

²¹⁵ AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903.

²¹⁶ AOT, CON 52/3 p.215: Madigan/Hutchins; AOT, RGD 37/10 1851 Launceston No.807: Madigan/Hutchins (2 January 1851). William Hutchins arrived as a convict on the *Emerald Isle*: AOT, CON 33/43 William Hutchins *Emerald Isle* 1843 No.10262.

²¹⁷ AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903.

²¹⁸ AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903.

²¹⁹ AOT, RGD 33/24 1852 Launceston No.3522: William Hutchins.

was with her husband, but in July 1853, she was back in the Launceston Female Factory. In October 1853, it was noted that she could apply in nine months for a ticket-of-leave. This was the last notation on her conduct record and after the birth of her daughter in March 1854, Mary does not appear to have been readmitted to a female factory.²²⁰

The Female Factories were multi-purpose institutions and not just places of punishment or hire. Many of the deliberate arsonists gave birth to children in one of the female factories: Jane Hyland, for example, gave birth to a daughter at the Female Factory at Ross and Margaret Butler's son was also born there.²²¹

New Norfolk Asylum for the Insane

At least two of the deliberate arsonists were admitted to the Asylum for the Insane at New Norfolk, one for several brief periods and the other dying there nearly fifteen years after her admission. From such a small sample, it is impossible to draw even general conclusions. It is worth noting O'Sullivan's comments about mental distress associated with the migration experience: an experience which can be 'alienating and depressing'.²²² The exact nature of the conditions resulting in admission is difficult to ascertain. The two main categories of nineteenth-

²²⁰ AOT, RGD 33/32 1854 Launceston No.601: 'Latitia' Farris Hutchins (14 March 1854).

²²¹ AOT, RGD 33/26 1850 Campbell Town No.978: Harriet Hyland (4 October 1850); AOT, RGD 33/30 1852 Campbell Town No.91: Michael Butler (13 April 1852). For children born at the Cascades female factory, generally, and conditions there, see Rayner, *female factory*, pp.12-14.

²²² Patrick O'Sullivan (ed.), *The Irish World Wide. History, Heritage, Identity. Volume. 2 The Irish in the New Communities*, London, 1992, pp.16-17. See also Liam Greenslade, 'White skins, white masks: psychological distress among the Irish in Britain' in O'Sullivan (ed.), *The Irish in the New Communities*, pp.201-225. See also Trevor McClaughlin, ' "I was nowhere else": casualties of colonisation in eastern Australia in the second half of the nineteenth-century' in McClaughlin, *Irish Women*, pp.154-162. For an Irish perspective, see Mark Finnane, *Insanity and the Insane in Post-Famine Ireland*, London & New Jersey, 1981.

century psychiatric classification, mania and melancholia, covered a wide range of symptoms and behaviours.²²³ As Finnane stated:

the criteria of insanity were ambiguous, even obscure. Popular and medical opinion equally saw fever, delirium or indeed any behaviour accompanied by sudden alterations in mental states as 'an attack of insanity' and made use of the asylum for its management.²²⁴

In the case of the two arsonists, Susan Chickley and Mary Nolan alias Butler, they were judged to be insane by their behaviour.

Susan Chickley, sentenced to transportation for life for arson, arrived on the *Australasia* in 1849. Although her gaol report noted that her behaviour was quiet, the surgeon's report noted that she had a violent temper and her behaviour was quarrelsome.²²⁵ In February 1850, while an assigned servant, she was sentenced to seven days in the cells for refusing to work – not an unusual behaviour for convict servants but, in this case, it may have been an indication of Susan's state of mind. Susan was admitted to the hospital towards the end of March, where her conduct 'afforded decided proof of insanity'.²²⁶ During her period in the hospital, it was noted that:

At times she is quiet, at other times extremely excited and irritable. She threatens violence and attempts to strike other patients without the least provocation. She is generally very restless and fancies at times that she has got a Bee buzzing in her head. She has made several attempts to go over the Hospital Wall and will not bear to be spoken to or submit to the regulations.²²⁷

²²³ Finnane, *Insanity*, p.161.

²²⁴ Finnane, *Insanity*, p.142.

²²⁵ AOT, CON 41/24 and CON 15/5 Susan Chickley *Australasia* 1849 No.1007. Susan Chickley only appears once in the surgeon's sick list: she was admitted on 25 August 1840 for 'obstipation' (chronic constipation) and was discharged cured on 28 August. There were no cases of 'mania' recorded: see Adm. 101/6 Reel 3189 Surgeon's Journal *Australasia* 21 June 1849 – 4 October 1849.

²²⁶ AOT, HSD 246/8/Folio 139.

²²⁷ AOT, HSD 246/8/Folio 139.

In April, Susan was admitted to the New Norfolk Asylum from the General Hospital in Hobart, because she was 'subject to paroxysms of maniacal excitement'.²²⁸ The report compiled on her admission noted that she was a prisoner, who had been seven months in the colony. It continued: 'It appears that during the voyage her conduct at times has been such as to give rise to the belief of her being insane'.²²⁹ There is no evidence of insanity mentioned in the surgeon's report.²³⁰ Shortly after her admission to New Norfolk Asylum, a detailed examination was conducted, which noted that she was:

An Irish girl. Single. Can neither read nor write. Was never at school. Does not know her age. An orphan. Never in [service]. Nor did she go to Church. Had always good health until the voyage out when she suffered from Headache. Phrenological development inferior. Temperament choleric. It does not appear that she ever laboured under hallucinations. Denies that she has been violent – says that she was so, because the people would not leave her alone... Moral [?] mania in a vicious uneducated vicious girl.²³¹

Shortly afterwards, her conduct was described as 'good' and it was also noted that she was very industrious. In June, she was 'amenable' and industrious and in good health. Finnane suggested that management of the 'lunatic' could precipitate violent behaviour, as well as control it.²³² Perhaps this explains the deterioration of Susan's behaviour, although it could also be related to her condition. In August, her file noted:

After quarrelling with other patients in the washhouse came into the Building and excited another patient ... to violence. Was herself also very violent – threatened Mrs Bentick[?] with the broom.²³³

In October, she was found by another patient 'in the privy' in the act of cutting her arm with a piece of glass:

²²⁸ AOT, HSD 246/8/Folio 139.

²²⁹ AOT, HSD 246/8/Folio 139.

²³⁰ Adm. 101/6 Reel 3189.

²³¹ AOT, HSD 246/8/Folio 139.

²³² Finnane, *Insanity*, p.155.

²³³ AOT, HSD 246/8/Folio 139.

This attempt at suicide appears to have been made because she was not brought before a board head yesterday. Today she expresses her regret.²³⁴

She was discharged, to the Cascades Female Factory, on 28 April 1851,²³⁵ but was readmitted to the Asylum a month later, and discharged again to the Cascades Factory, in November 1851.²³⁶ In June 1852, while in government employ, Susan was again admitted to the Asylum from the General Hospital suffering from 'mania'.²³⁷ She was discharged in December to the Police Office for disposal.²³⁸ Six months after her discharge, she married and later had three children.²³⁹ During this period, Susan appears to have had no contact with the Asylum. Her conditional pardon was approved in 1859, but only days later, her three children were admitted to the Orphan School.²⁴⁰ No information about the children's parents was recorded on the admission register, and it is not known why the children were admitted.²⁴¹ In 1863, Susan remarried and appears to have begun to regain some control over her life, as indicated by the release five months after her

²³⁴ AOT, HSD 246/8/Folio 139.

²³⁵ AOT, HSD 254/1.

²³⁶ AOT, HSD 254/1.

²³⁷ AOT, HSD 254/1.

²³⁸ AOT, HSD 254/1. This was by authority of the Lieutenant-Governor, dated 21 June 1852. AOT, CON 41/24 Susan Chickley *Australasia* 1849 No.1007. On 24 July 1852, she was at Brickfields. On 18 August 1852, she was assigned to George Milne, Macquarie Street. On 20 August 1852, she was at Brickfields. On 21 August 1852, she was at H.M. Colonial Hospital. On 6 September 1852, she was at the House of Correction. On 9 September 1852, she was assigned to G.H. Anderson, Elizabeth Street. On 18 October 1852, she was at the House of Correction.

²³⁹ AOT, RGD 37/11 1852 Brighton No.34: Chirkley/Fairley (22 May 1852); AOT, RGD 33/4 1853 Hobart No.2103: Sarah Chickley (19 Feb 1853); AOT, RGD 33/33 1855 Richmond No.1375: Edward Fairley (15 May 1855); AOT, RGD 33/34 1856 Richmond No.1461: Charles Fairley (24 September 1856). Sarah was registered as Chickley, not Fairley.

²⁴⁰ The conditional pardon was approved on 4 January 1859 and the children were admitted on 12 January 1859: see AOT, SWD 6 (1859) p.19. Charles, aged 2, and 'Edmond' Fairly, aged 3, were admitted to the Infant School. Charles was discharged on 1 October 1863. AOT, SWD 28/1 p.43: 'Edmund' Fairley, aged 8, was discharged from the Infant School and admitted to the Male School on 16 January 1863: AOT, SWD 28/1 p.47.

²⁴¹ Hugh Fairley's death has not been located. Sarah, aged 6 years and 6 months, died in the Queen's Orphan School on from 'typhoid pneumonia after measles': AOT, RGD 35/6 1861 Hobart No.2880: Sarah Fairley (23 July 1861).

marriage of her youngest son, Charles, from the Orphan School.²⁴² After her second marriage, Susan does not appear to have been readmitted to the Asylum, although she perhaps continued to exhibit those behavioural signs which had earlier resulted in her being labelled insane: in 1866, Susan appeared before the Warden in the Oatlands Court, as the result of a summons on a complaint of assault by a woman named Bridget Kelly.²⁴³ She died in 1908.²⁴⁴

The other deliberate arsonist admitted to the Asylum was Mary Nolan alias Butler, who committed arson in order to follow her transported daughter, Margaret Butler. A sixty-year-old widowed country servant from Kilkenny, Mary was sentenced to transportation for fifteen years, arriving in 1850.²⁴⁵ In Van Diemen's Land, she had only minor offences recorded against her name, mostly committed while she was at the Brickfields: in May 1851, one month's hard labour in the Cascades Female Factory, for having a pipe in her possession; in December 1851, three months' hard labour for having a quantity of tobacco in her possession; in April 1852, four months' hard labour for disorderly conduct in the mess. She was assigned to a number of employers in Hobart and various country areas before receiving a ticket-of-leave in 1854 and a conditional pardon in 1856.²⁴⁶

²⁴² AOT, RGD 37/22 1863 Oatlands No.607: Fareley/Merrick (25 May 1863). For Charles Fairley, see AOT, SWD 28/1 p.43 (1 October 1863).

²⁴³ AOT, LC 390/5 Oatlands (22 January 1866.) Susan pleaded guilty and was fined 10/- and costs, or, in default, 7 days' hard labour. The court register noted that the costs were paid.

²⁴⁴ AOT, RGD 27/1 1908 Oatlands No.329: Susan Merrick (6 June 1908). Described as the 76-year-old widow of Thomas Merrick, a cooper, she died of a 'cerebral haemorrhage'.

²⁴⁵ AOT, CON 41/28 and CON 15/6 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208; *Limerick Reporter & Tipperary Vindicator* 26 March 1850 p.4 col.3. Her daughter, Peggy (Margaret) Butler, arrived on the *Earl Grey*.

²⁴⁶ AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208.

Mary was admitted to the Asylum at New Norfolk on 26 January 1858 and remained there until she died nearly fifteen years later.²⁴⁷ When she was admitted, because of 'amentia', she was described as sixty-years-old and free by servitude. Finnane, writing in an Irish context, suggested that numerous committals of old people were made, not because they were dangerous, but because it was expedient for a society faced with an increasing burden of socially-dependent aged.²⁴⁸ He interpreted these admissions as a consequence of 'difficulty of management' and 'disposing of the troublesome'.²⁴⁹ In Mary's case, it seems to have been more than unmanageable old age. She was admitted to the Asylum from the General Hospital, by Governor's warrant, accompanied by a medical history which noted that she exhibited 'much nervous excitement' and was 'the subject of delusions that people were attempting to poison her'. A few days after her admission, her records noted that the delusions continued, and that she occasionally broke out into 'a strain of incoherent language'. She was of 'infirm phrenological development in general and amenable but inclined to indolence'. She slept 'tolerably well at night, and her appetite was good'. After nearly a month in the Asylum, it was noted that she was not as amenable as first and that it was with difficulty that she was kept to any employment. She was also incoherent.

Finnane also suggested that institutionalisation may have contributed to a deterioration in health and behaviour among inmates: 'The dull, inertia-like

²⁴⁷ AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208; AOT, HSD 51/1 Folio 233: Mary Nolan.

²⁴⁸ Finnane, *Insanity*, p.144.

²⁴⁹ Finnane, *Insanity*, p.144.

surroundings of the asylum ... would almost certainly foster “dementia” where it was not already present; and the physically insanitary conditions nurtured disease and sometimes caused death’.²⁵⁰ It seems that this may have been true in Mary’s case. A year after admission, she was described as the ‘same incoherent troublesome person’; although she was in good health, she believed she was wasting away.²⁵¹

By January 1866, eight years after being admitted, Mary’s records noted that she was dirty, pitiful and obscene. She suffered minor complaints, including an ulcer on her leg, which healed, and she was knocked down by a patient, but not harmed. By March 1868, it was noted that she was nearly blind. Although her behaviour had improved, she was always ‘a sloven’. In April, it was recorded that she ‘never speaks’ and by June, she was blind but quiet. By November 1870, after twelve years in the Asylum, it was noted that she appeared to be failing. Two years later, in April 1872, the institution records stated: ‘This old woman is failing fast’. By September, she was not able to get up for several days; she was capable of taking some stimulants but little food, and was sinking fast. She died at 1.20 pm on 19 September 1872.²⁵² According to her death certificate, Mary Nowlan, a seventy-five-year-old pauper, died of ‘natural decay’.²⁵³ If her age on arrival in the colony in 1850 was recorded accurately, she was closer to sixty-eight (not sixty) when she was admitted to the Asylum and eighty-two (not

²⁵⁰ Finnane, *Insanity*, p.189.

²⁵¹ AOT, HSD 51/1 Folio 233: Mary Nolan.

²⁵² AOT, HSD 52/2 Folio 132, Folio 292: Mary Nolan. A post mortem was performed the day after her death.

²⁵³ AOT, RGD 35/41 1872 New Norfolk No.337: ‘Mary Nowlan’ (19 September 1872). G.F. Huston, Superintendent and Medical Officer of the New Norfolk Hospital for the Insane, registered her death.

seventy-five) when she died. Finnane writes of asylum inmates who were 'the worst casualties of hard times, subjected to repeated blows of economic, social and personal misfortunes'.²⁵⁴ Clearly, Mary fits into this category.

Others suffering from mental conditions may not have made it to the Asylum: twenty-two-year-old Maria Lynch died in 1846 in the General Hospital less than a year after her arrival in the colony. Although no cause of death was recorded in the convict death register, her indent was annotated 'idiotic'.²⁵⁵ This may have been a pre-existing condition, as Surgeon-Superintendent Jason Lardner, in his journal of the voyage, noted that: 'One convict was Idiotic'.²⁵⁶ Finnane suggested that, throughout the nineteenth century, there was a clear distinction between 'insanity' and 'idiocy' or 'imbecility' and, although asylums were originally only intended for the 'insane', the absence of facilities saw the admission of those labelled 'idiotic' or 'imbecile'.²⁵⁷

Some women had contact with the Asylum through the admission of their husbands or other family members.²⁵⁸ The husbands of Alice Tobin and Johanna Walsh were both admitted, and died there.²⁵⁹ In 1891, Ellen Wiseman's daughter,

²⁵⁴ Finnane, *Insanity*, p.169.

²⁵⁵ AOT, CON 41/5 Conduct Record: Maria Lynch *Tasmania* (2) 1845 No.356; AOT, CON 63/2 Maria Lynch *Tasmania* (2) 1845 No.356. For discussion of contemporary interpretations of 'idiocy', see Finnane, *Insanity*, pp.145-146.

²⁵⁶ AOT, Adm. 101/71 Reel 3211 *Tasmania* (20) 1845.

²⁵⁷ Finnane, *Insanity*, p.145.

²⁵⁸ For the role of family members in admission, and the asylum as an instrument of social control, see Finnane, *Insanity*, pp.161-169.

²⁵⁹ AOT, HSD 247/1 Folio 606: William Moy. William Moy was admitted suffering from 'amentia' in 1869; he also had 'incipient paralysis'. He died 5 months later at the Asylum of 'chronic meningitis': see RGD 35/38 1869 New Norfolk No.359: William Moy (23 September 1869). For Charles White, see AOT, CON 37/7 p.2301: Charles White and AOT, LC 247/32 (1865). He was admitted to the asylum as a result of insanity caused by injuries received at Port

Mary Ann Cousins, was an inmate of the New Norfolk Asylum.²⁶⁰ She was thirty and had been 'working on her mother's farm' at Black Sugar Loaf, near Westbury, when she was admitted for 'melancholia', from which she had been suffering for three weeks. The admission was the result of two private orders, one by her sister Emma Cousins. Mary Ann's bodily condition was 'exhausted', but she recovered and was discharged in June 1892.²⁶¹ In 1906, she returned to the Asylum. A forty-five-year-old housekeeper from Deloraine, she was admitted by Justices Order and was said to be suffering from 'dementia'. Her bodily condition was 'feeble' and she died there in October 1907.²⁶²

Although the number of arsonists admitted to the New Norfolk Asylum was small, their experience serves to highlight not only how successful the others were but how fragile and vulnerable that success was. To Trevor McLaughlin, the number of those admitted to institutions was irrelevant: he suggested that awareness of the 'casualties' prevented Irish women settlers, convict and free, from being viewed through 'rose-tinted spectacles'.²⁶³ The experience of the women admitted to the Asylum also serves as a cogent reminder that social and

Arthur in 1864. He died in the asylum in 1865: see AOT, RGD 35/34 1865 New Norfolk No.353; Charles White (11 June 1865).

²⁶⁰ AOT, HSD 247/1 1891 No.1740; HSD 247/2 1906 No.2797: she was admitted at least twice: on 26 December 1891 and 15 December 1906. For her birth, see RGD 33/39 1861 Westbury No.2282: Mary Ann Cousins. See also AOT, RGD 37/37 1878 Port Sorell No.770: Mary Ann Cousins (24 October 1878). A 20-year-old farmer's daughter, she married George Knights, 24-year-old labourer, at Port Sorell, on 24 October 1878. They had at least 7 children between 1882 and 1892: George Henry Knight (1882 Port Sorell); John William Knight (1884 Deloraine); Charles Arthur Knight (1887 Deloraine); Ida Selina Knights (10 January 1890 Deloraine); Alice Mary Knights (25 July 1892 Port Sorell); Albert Knights (1894 Port Sorell); Female Knights (1897 Port Sorell). There is no mention of pregnancy in Mary Ann Cousins's admission papers, and this may have been another couple, but note *Tasmanian Death Certificate* Death 1907: Mary Ann (Cousins) Knights.

²⁶¹ AOT, HSD 247/1 1891 No.1740.

²⁶² AOT, HSD 247/2 1906 No.2797. See also *Tasmanian Death Certificate* Death 1907: Mary Ann (Cousins) Knights (18 October 1907).

²⁶³ McLaughlin, 'I was nowhere else', p.162.

economic outcomes for the arsonists were not only determined by what McLaughlin calls 'demographic factors',²⁶⁴ but also by biological conditions causing mental illness.

Old age

Surprisingly, given the harsh conditions that characterised the lives of many of the deliberate arsonists, several lived to their seventies and eighties. All of these were married with families. Margaret (Bourke) Smith died in 1900 in her seventies.²⁶⁵ Margaret (Leary) Nichols died at Moonah in November 1901 aged seventy-eight.²⁶⁶ Another, Mary (Sullivan) Thickers was eighty-three, according to her death certificate in 1906.²⁶⁷ Margaret (Keogh) Wallace, who died in 1912, was also eighty-three.²⁶⁸ Alice (Julian) Walker died in 1920 aged eighty-five.²⁶⁹ The longest-living, Alice Collins, died in 1918 aged ninety.²⁷⁰

Those who survived to old age were particularly vulnerable to poverty, and dependence on the State, especially if they did not have any family or a network of support.²⁷¹ Piper concluded that those who lacked a skilled trade or occupation were more likely to spend their final days in an invalid depot.²⁷² His figures for the New Town Charitable Institution and, to a lesser extent, the Launceston

²⁶⁴ McLaughlin, 'I was nowhere else', p.160. These factors included: 'their economic marginalisation or lack of power, their isolation and sense of being "lost" and frightened in unfamiliar colonial societies ... their seemingly greater sensitivity to the dislocation of migration'.

²⁶⁵ Tasmanian Death Certificate 1900 Green Ponds No: Margaret Smith.

²⁶⁶ Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nichols.

²⁶⁷ Tasmanian Death Certificate 1906 No.0440: Mary Ann Thickers.

²⁶⁸ Margaret Siegmann, *Wexford to Van Diemen's Land. The Kehoe Family in Tasmania from 1843*, 1993, p.82. No death registration has been located.

²⁶⁹ Victorian Death Certificate 1920 No.13579: Alice Walker.

²⁷⁰ AOT, NS 1052/55 Deloraine Tombstone Inscriptions No.21.

²⁷¹ O'Brien, 'Poverty's Prison', p.52.

²⁷² Piper, 'Aged Poor', pp.473-475: more than 60% of inmates at Brickfields were unskilled labourers.

Invalid Depot, demonstrated that a high proportion of admitted women had been domestic servants.²⁷³ Few of the arsonists who reached old age died in institutions, and so presumably acquired the necessary means of survival to keep them out.²⁷⁴ O'Brien suggested that aversion to institutions was widespread, and was resisted as long as possible.²⁷⁵ For some – the very old, very poor and very sick – there was sometimes no option.²⁷⁶ The alternative was to be arrested for being 'idle and disorderly' or having 'no visible means of support'.²⁷⁷ In August 1896, sixty-seven-year-old Catherine Leathley was sentenced to one month's imprisonment at New Norfolk for being 'idle and disorderly'. The only property she had was a pipe, knife and matches. She had been arrested at 9.45 am, perhaps an indication that she was homeless or wandering.²⁷⁸ This is the last record of her that has been located, and it is not known when or where she died.

New Town Charitable Institution

A range of institutional care was available for the aged.²⁷⁹ Most of the deliberate arsonists appear to have managed to avoid the charitable institutions in their old age.²⁸⁰ Eighty-three-year-old Irish-born Mary (Sullivan) Thickers, however, died

²⁷³ Piper, 'Aged Poor', p.479: at New Town, 138/152.

²⁷⁴ Joanna Bourke, ' "The Best of all Home Rulers": The Economic Power of Women in Ireland, 1880-1914', *Irish Economic and Social History*, Vol. XVIII, 1991, p.45: In Ireland, in 1911, 7% of all men over the age of 65 years were living in workhouses, compared to 4% of elderly women.

²⁷⁵ O'Brien, *Poverty's Prison*, p.52.

²⁷⁶ O'Brien, *Poverty's Prison*, pp.55, 61.

²⁷⁷ O'Brien, *Poverty's Prison*, p.56.

²⁷⁸ AOT, POL 510/1/2 New Norfolk 12 August 1896: Catherine Leathley.

²⁷⁹ For a list of the institutions which catered for the aged, see Brown, *Poverty is not a Crime*, p.175. For the history of charitable institutions available to the aged poor in Tasmania, and policy changes, see Brown, *Poverty is not a Crime*, and Andrew Kenneth Shaw Piper, 'Beyond the Convict System: the Aged Poor and Institutionalisation in Colonial Tasmania', unpublished Ph.D. Thesis, University of Tasmania, 2003.

²⁸⁰ A possible but unconfirmed death is that of Irish-born Mary Ann Platt who died of 'morbus cordis' on 4 May 1881 at the New Town Charitable Establishment. She was described as a clerk's wife. This may be Margaret or Mary Ann Leggitt, who married William Platt, although Platt's occupations were recorded as a dealer and hawker. Mary Ann Platt was buried as a pauper at

in the New Town Charitable Institution in 1906.²⁸¹ By the time Mary (Sullivan) Thickers was in the New Town Charitable Institution, there was growing acceptance that the inmates of the institution were the product of ‘the twin scourges of old age and poverty’.²⁸² Earlier, the care of aged poor had been linked with the insane and criminal offenders.²⁸³

The New Town Charitable Institution was established for ‘the reception and maintenance of destitute persons, who have been permanently injured, or [were] suffering from such chronic diseases as can be treated in an asylum, where there is no specialised nursing staff, and where the Medical Officer is not resident but visiting’.²⁸⁴ In 1874, the New Town Establishment for Indigent Females was developed on the site of the Queen’s Asylum for Destitute Children.²⁸⁵ In 1879, a cost-cutting rationalisation of other charitable institutions took place; male invalids were transferred from the Cascades to New Town, as were invalids at the Brickfields.²⁸⁶ All invalids were then housed on the one site; pauper lunatics were sent to the New Norfolk Asylum.²⁸⁷ Joan Brown suggested that, until the last

Cornelian Bay: see RGD 35/9 1881 Hobart No.3153: Mary Ann Platt; SRCT, Record ID 3327, Pauper, Section A, No.115: M.A. Platt.

²⁸¹ Tasmanian Death Certificate 1906 Hobart No.0440: Mary Ann Thickers; SRCT, Record ID 14798, Pauper, Section A, No.243: Mary Ann Thickers.

²⁸² Piper, ‘Aged Poor’, p.425.

²⁸³ See Brown, *Poverty is not a Crime*, pp.158-159, 175, for a list of the institutions which catered for the aged. The New Town Charitable Institution later became St John’s Park Hospital.

²⁸⁴ AOT, CSD 13/67/1144, Moore to Smart, 30 August 1883 cited in Piper, ‘Aged Poor’, p.354. For conditions in the New Town Establishment for Female Paupers in the 1870s, see Piper, ‘Aged Poor’, pp.320–322.

²⁸⁵ Piper, ‘Aged Poor’, p.352: it was proclaimed in the *HTG* 28 July 1874. See AOT, CSD 10/70/1717, Reibey to Minister Lands and Works, 3 June 1789.

²⁸⁶ Piper, ‘Aged Poor’, p.351: AOT, CSD 10/71/1765, Reibey to Withrington. 27.5.1879 and CSD 10/71/1765, Reibey to Scott, 23 May 1879.

²⁸⁷ Piper, ‘Aged Poor’, pp.350-351. The Launceston Invalid Depot, established in 1868, catered for aged men; women were accommodated in a section of the gaol, and were still there in 1888. In 1895, after the government proposed closing the Depot and sending its inmates to New Town, the

decade of the century, pressure on institutional aged accommodation was acute: 'many old men and women slept on the floor as the only means of fitting them in'.²⁸⁸ As in the Irish workhouses, married couples were separated in the aged institutions.²⁸⁹ To Brown, this was a major shortcoming:

Apart from the lack of adequate physical care for the sick and dying ... the chief faults of all the institutions were the separation of man and wife, the lack of provision for the retention of normal human dignity and the soul destroying monotony of life in the depots.²⁹⁰

As late as 1888, an estimated 82 per cent of the inmates of the New Town Charitable Institution and the Launceston Invalid Depot were emancipated convicts.²⁹¹ Towards the end of the century, there was an amelioration in conditions, prompted to some extent by philanthropic interest which resulted in increased contact and a corresponding greater awareness of the needs of the aged poor.²⁹²

The voices of the aged poor are rarely heard in the records. How Mary (Sullivan) Thickers ended up in the New Town Charitable Institution, and how long she was an inmate, is not known. Her husband, Samuel, died at the age of eighty-two in Brighton, Victoria, in 1908, two years after his wife. According to his death certificate, at the time of his death, Samuel had been resident in Victoria for twenty years, since about 1888.²⁹³ Some of Mary's children moved to New

Launceston Benevolent Society took it over; the name changed to the Launceston Benevolent Asylum: see Brown, *Poverty is not a Crime*, pp.158-159, 175.

²⁸⁸ Brown, *Poverty is not a Crime*, p.122. For conditions in aged institutions, see Brown, *Poverty is not a Crime*, pp.122-125, 157-160; Piper, 'Aged Poor', pp.320-322.

²⁸⁹ Brown, *Poverty is not a Crime*, pp.124, 160.

²⁹⁰ Brown, *Poverty is not a Crime*, p.124.

²⁹¹ AOT, HAP 3/1900 (1888 Royal Commission on Charitable Institutions); Brown, *Poverty is not a Crime*, p.157.

²⁹² Brown, *Poverty is not a Crime*, p.160.

²⁹³ Victorian Death Certificate 1908 No.8731: Samuel Thickers.

Zealand and Victoria; one son, predeceased her. Another son, William, remained in Hobart, dying there in 1928.²⁹⁴

Outdoor relief

Outdoor relief was one of the few alternatives to institutional care but its availability was limited.²⁹⁵ In the 1850s, only a small minority of the aged without relatives to support them were able to remain in their homes, usually with the assistance of charitable organisations such as the Hobart Dorcas Society and the Launceston Benevolent Society, and, from 1860, the Hobart Benevolent Society.²⁹⁶ Contemporary policy was for the single or widowed aged to enter an institution. By the 1880s, the policy had changed and outdoor relief increasingly became an acceptable alternative to institutional care.²⁹⁷ Originally a function of the police, by 1870 it was administered by two police magistrates, William Tarleton and Thomas Mason.²⁹⁸ Investigation into the character of applicants was an intrinsic part of the system.²⁹⁹ By the turn of the century, outdoor relief for the aged poor was accepted practice and paved the way for the introduction of old age pensions.

It is not known whether any of the deliberate arsonists received the old age pension. Applications were sometimes noted on convict conduct records:

²⁹⁴ SRCT, Record ID 26068, CE, Section VV, No.391: William Thickens.

²⁹⁵ For changes in outdoor relief policy and administration, see Brown, *Poverty is not a Crime*, pp.20-22, 54-60, 125-136, 161-165 and *passim*.

²⁹⁶ Brown, *Poverty is not a Crime*, p.125.

²⁹⁷ Brown, *Poverty is not a Crime*, pp.125-127. For examples of forms of assistance, see Brown p.126.

²⁹⁸ Brown, *Poverty is not a Crime*, p.102. Tarleton was later first Administrator of the Charitable Grants Department, set up as a result of the Royal Commission on Charitable Institutions in 1871: Brown, pp.127-128. For the Royal Commission, see AOT, HAP 63/1871.

²⁹⁹ Brown, *Poverty is not a Crime*, pp.127-128.

Catharine Burns, transported for arson in 1851 and conditionally pardoned in 1856, applied for an old age pension on 31 August 1909.³⁰⁰ With two others in Limerick, claiming hunger, she had set fire to a small quantity of hay after failing to obtain relief.³⁰¹ In 1908, the Commonwealth Government introduced the *Old Age Pension Act*, effective from 1 July 1909, superseding State legislation.³⁰² Tasmania, after Federation, had introduced a State Compassionate Allowance, which was effectively an old age pension, to assist non-institutionalised aged people who were unable to work.³⁰³

At least one of the deliberate arsonists spent her old age in the care of her children: Margaret (Bourke) Smith and her husband, James, spent their final years living with their daughter, Louisa, in the same district where they settled after marrying. They were part of a small Irish community; Margaret's granddaughter remembered seeing the Irish women who lived there, in a small hamlet called Irish Town, 'sitting out the front of their cottages smoking their clay pipes'.³⁰⁴

³⁰⁰ AOT, CON 41/30 Catharine Burns *Blackfriar* 1851 No.1102.

³⁰¹ *Limerick and Clare Examiner* 17 April 1850 p.4 col. 4. See also AOT, CON 41/30 Catharine Burns *Blackfriar* 1851 No.1102 and Mary Burns *Blackfriar* 1851 No.1103.

³⁰² Jill Roe, 'Old Age, Young Country. The First Old-Age Pensions and Pensioners in New South Wales', *Teaching History*, July 1981, pp.23-42. NSW (1900), Victoria (1900) and Queensland (1907) had old-age pensions before 1909. Roe, p.28, noted that 29% of the whole population over 65 was without means, or with income under 10s per week (when unskilled labour could earn 7s. per day) or had accumulated less than £50 worth of property.

³⁰³ Piper, 'Aged Poor', p.425.

³⁰⁴ AOT, CON 41/36, CON 15/8 and CON 19/11 Margaret Bourke *Midlothian* 1853 No.1213; AQT, CON 52/7 p.451: Burke/Smith; AOT, RGD 37/13 1854 Brighton No.52: Bourke/Smith. Permission to marry James Smith was granted in May 1854; they married the following month at Brighton. See also Pearl Griggs, *personal communication*, 15 July 2004. Mrs Griggs is a great-granddaughter of Margaret (Bourke) Smith.

Escaping a convict past

There is no evidence to suggest that any of the women returned to Ireland. More than half the women were granted conditional pardons prohibiting their return to the country where they were tried or to the United Kingdom, but once they had received their certificate of freedom at the expiration of their sentence they were free to do so. Practically, however, it was very difficult for them to return. Some of the women (and their families) did move interstate or to New Zealand, perhaps in search of better economic conditions or even to escape their convict past. For some, the lure of the gold rush, firstly in Victoria, and later NSW, Western Australia and New Zealand, provided the promise of greater prospects.³⁰⁵ Ellen (Ryan) Dwyer was one who settled in the Victorian goldfields.³⁰⁶ At least five other deliberate arsonists moved to Victoria.³⁰⁷ Others moved to New South Wales: two settled in the Bombala region; another in Glen Innes; and a fourth in Sydney.³⁰⁸ Maria (Collister) Kirkpatrick may also have moved interstate; although Maria disappeared from the records, her husband, John Kirkpatrick, and his son, settled in northern NSW.³⁰⁹

³⁰⁵ Scott Bennett, 'The Impact of the Victorian Goldrush on the Economy of Van Diemen's Land', *A.N.U. Historical Journal*, October 1964, Vol.1, No.1, pp.69-84.

³⁰⁶ AOT, CON 41/36 Ellen Ryan *Midlothian* 1853 No.629; Victorian Death Certificate 1888 No.7986; Ellen Dwyer. See also Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

³⁰⁷ AOT, CON 41/35 Alice Julian *Martin Luther* No.443; AOT, CON 41/26 Celia Kavanagh *Earl Grey* 1849 No.383; AOT, CON 41/19 Mary Madigan *Kinnear* 1848 No.903; AOT, CON 41/26 Bridget Delaney *Earl Grey* 1850 No.694; AOT, CON 41/20 Ellen Murphy *Lord Auckland* (3) 1849 No.960.

³⁰⁸ AOT, CON 41/22 Mary McCarthy 1st *Maria II* 1849 No.982; AOT, CON 41/30 Margaret Foley *Blackfriar* No.486; AOT, CON 41/24 Ann Corry *Australasia* 1849 No.1000; AOT, CON 41/26 Mary Nowlan *Earl Grey* 1850 No.199.

³⁰⁹ AOT, CON 41/26 Maria Collister *Earl Grey* 1850 No.1077. See also Martyn Killion, *personal communication*, 21 April 2004. John's son, known as William Kay, was raised by a Kay family; he died in Grafton in 1888. His headstone noted that he was born in Tasmania but no record of his birth has been located.

It is not always possible to find reasons for the interstate move. Of the six that went to Victoria, all were there by the mid-1870s. Celia (Kavanagh) Hurley moved some time between 1859, when a daughter was born in Bothwell, and 1861, when a son was born in Sale.³¹⁰ The Dwyers were there by 1871, when a son was born.³¹¹ The Dickensons moved at some stage after 1865, when their daughter was born in Hobart, and before 1873, when another daughter died in Victoria (she had been four years in the State at the time of her death).³¹²

In the case of Mary (Madigan) Hutchins, the move may have been prompted by the death of her eldest daughter from typhoid in 1872.³¹³ By 1874, the family had moved to industrial Collingwood, where their youngest child was born.³¹⁴

Alice (Julian) Walker's move followed a period of imprisonment in the Cascades Female Factory, where a daughter died and another was born. The family then moved to Launceston, where another daughter was born in October 1870. By December 1872, the family had moved interstate; a daughter was born in Collingwood in December 1872.³¹⁵

³¹⁰ AOT, RGD 33/33 1855 Bothwell No.43: Catherine Hurley (1 August 1859); Victorian Death Certificate No.17495 1861: Thomas Hurley.

³¹¹ Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

³¹² AOT, RGD 33/9 1865 Hobart No.7510: Elizabeth Charlotte Dickenson (12 March 1865); Victorian Death Certificate 1873 No.6822: Margaret Dickenson (30 July 1873).

³¹³ <http://tascoastalcemeteries.com/hutchins.htm> she was buried in the Don Congregational Cemetery. The other Hutchins burial in this cemetery was Mills Fay Hutchins, aged 2 weeks, who was buried on 25 October 1924. See also Tasmanian Death Certificate: 1915 No.0014: Harry William Ferris Hutchins (Beaconsfield). This death indicates that some of the family remained in or returned to Tasmania.

³¹⁴ Victorian Birth Certificate 1874 No.8206: Letitia Ferris Hutchins. For an account of life in Collingwood during this period, see Margaret M. Pawsey, 'Annie Wilkins. Life on the Margins in Nineteenth-Century Collingwood', *Victorian Historical Journal*, Vol.66, No.1, June 1995, pp.3-19.

³¹⁵ AOT, RGD 35/7 Hobart 1867 Hobart No.6859: Rosaline Mary Walker (15 July 1867); AOT, RGD 33/9 1867 Hobart No.9569: Amelia Walker (8 October 1867); AOT, RGD 33/48 1870

Mary McCarthy had been transported with her sister, Julia, in 1849, and her husband with his father and brother in 1845.³¹⁶ John's father, Richard, was killed by a falling tree in 1847.³¹⁷ A daughter was burned to death on her third birthday in 1856.³¹⁸ In 1857, the McCarthy sisters and their spouses were brought before the Hobart Lower Court, for a series of offences which included breach of the peace and assault. In most instances, the complaints were withdrawn, neither party appearing.³¹⁹ In May 1858, John Rogers, free by servitude, was charged by Constable Kelly with being 'drunk and disorderly in a public street on the 4th inst'. He pleaded guilty and was fined 10/- or, in default, 24 hours' solitary confinement.³²⁰ By 1863, the family had moved to Bombala in New South Wales, where they had more children.³²¹

The convict stigma has been held responsible for failure to acknowledge a convict past. Few descendants of the deliberate arsonists knew of their convict ancestry before embarking on family history research. Evidence in family lore about an arsonist ancestor was located in only one family, and this version was modified.³²²

Launceston No.227: Maria Mary Walker (15 October 1870); Victorian Birth Certificate 1873 No.1541: Beatrice Walker (27 December 1972).

³¹⁶ AOT, CON 41/22 Mary McCarthy 1st *Maria II* 1849 No.983; AOT, CON 33/72, CON 14/32 and CON 18/44 John Rodgers *Equestrian* (2) 1845 No.16902.

³¹⁷ AOT, RGD 34/2 1847 Hobart No.1601: Richard Rogers (3 June 1847).

³¹⁸ AOT, RGD 33/5 1853 Hobart No.2555 Catherine Rodgers (8 July 1853); AOT, RGD 35/5 1856 Hobart No.847 (8 July 1856): Catherine Rodgers AOT, SC 195/39 Inquest No.3819 (11 July 1856): 'Caroline' Rogers. *Colonial Times*, 11 July 1856 p.3 col.1.

³¹⁹ AOT, LC 247/27 12 August 1857; AOT, LC 247/27 19 August 1857; AOT, LC 247/27 19 August 1857; AOT, LC 247/27 9 October 1857: Rogers v Webb; AOT, LC 247/27 9 October 1857: Rogers v Rogers; AOT, LC 247/27 9 October 1857.

³²⁰ AOT, LC 247/28 Hobart (5 May 1858).

³²¹ NSW Birth Certificate 1863 Bombala No.5694: John Rogers.

³²² Dianne Egbert, *personal communication*, 4 May 2004.

Ironically, for the deliberate arsonists, colonial success often meant denial, selective remembering or hiding of the past.

When Ellen (Ryan) Dwyer died in Victoria, in 1888, her death certificate recorded information about her mother consistent with that on her convict indent. Both parents were named in full, and her father's occupation was given. Her death was registered by the local police officer. Her death certificate also stated that she was married in Geelong, Victoria, at the age of twenty-two, to John Dwyer.³²³ This may have been an attempt to disguise a Van Diemen's Land marriage and a convict past. The birth certificate of Anthony, son of Ellen (Ryan) and John Dwyer, accurately recorded his parents' marriage details as July 1854, Hobart Town.³²⁴

Alice (Julian) Walker also died in Victoria. Her death certificate revealed little about her background: her parents' details were 'unknown'. Her marriage and birth details, and colonial experience, provided by an agent, were misleading: her place of birth was given as Newcastle, England; her place of marriage as Melbourne; and only her Victorian residency – 65 years – was recorded correctly.³²⁵ When Alice's youngest daughter, Beatrice, was born, details recorded on her birth certificate were correct: Beatrice's parents were married in

³²³ Victorian Death Certificate 1888 No.7986: Ellen Dwyer. See also Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

³²⁴ Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

³²⁵ Victorian Death Certificate 1920 No.13579: Alice Walker (5 December 1920).

Hobart in 1854, and her mother was born in Kilkenny. Alice registered the birth.³²⁶

On the other hand, when Margaret (Foley) Snell died in 1898 in New South Wales, her death certificate gave complete details about her parents and accurate information about her Tasmanian background.³²⁷ No personal information about parents, marriage or family was recorded on her husband's death certificate; his death was registered by a former employer.³²⁸

Conclusion

The deliberate arsonists left no written records and few stories were passed down to their descendants of their lives in Ireland or Van Diemen's Land. Little is known of their struggle to survive as emancipated convicts, when they were 'on their own hands'. Inevitably, because detailed records were kept, more is known of those who came into contact with the authorities, in court and colonial institutions. Even then, the voice of the individual woman is rarely heard.

Clearly, the deliberate arsonists were survivors, manipulating the circumstances in which they found themselves in order to live. Babette Smith concluded that transportation offered women a second chance.³²⁹ In deliberately committing arson in order to be transported, the deliberate arsonists, poor and marginalised, recognised this. At least seven of the deliberate arsonists died in their twenties, and had little chance to start a new life, although some formed relationships,

³²⁶ Victorian Birth Certificate 1873 No.1541: Beatrice Walker (27 December 1972).

³²⁷ NSW Death Certificate 1898 No.008824: Margaret Snell (9 July 1898).

³²⁸ NSW Death Certificate 1898/013099: Michael Snell (1 October 1898).

³²⁹ Smith, *A Cargo of Women*, p.174.

married and gave birth before they died.³³⁰ Ellen Fleming, who arrived in 1850, married in 1851 and had two children before dying at the age of twenty-five in 1854.³³¹

Achieving a successful outcome was not straightforward. The threat of poverty was rarely far away; susceptibility was increased by the death or desertion of a partner, or alcoholism. Economic conditions, including the characteristically depressed Tasmanian economy, also contributed to the vulnerability of the women. Yet few of the women turned to crime or prostitution in order to survive and most managed to escape being institutionalised. In this respect, the deliberate arsonists were successful colonists.

Measuring success, however, is fraught with difficulty. Joy Damousi warned against attempts to 'rescue' convict women and mould them into 'respectable citizens' because they were the 'pioneer family women' of Australia.³³² She argued that this preoccupation of whether convict women did or did not 'succeed' in becoming respectable citizens, or whether they remained 'dissolute' all of their

³³⁰ AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356 and AOT, CON 63/2 (25 October 1846) Maria Lynch *Tasmania* No.356; AOT, CON 41/22 Ellen Gallavan *Maria* (2) 1849 No.495 and AOT, CON 63/2 (3 August 1849); AOT, CON 41/26 Jane Williams 2nd *Earl Grey* 1850 No.855 and AOT, RGD 34/2 1850 No.1868: Jane Williams (7 June 1850); AOT, CON 41/26 Ellen Fleming *Earl Grey* 1850 No.451 and AOT, RGD 35/23 1854 Fingal No.10: Ellen Styles (18 May 1854); AOT, CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484 and AOT, CON 63/2 (31 May 1854) Margaret Lehane *Blackfriar* No.484; AOT, CON 41/30 Ann Blake *Blackfriar* 1851 No.1106 (14 November 1855); AOT, CON 41/22 Ellen Gallavan *Maria* (2) 1849 No.495 and AOT, CON 63/2 (3 August 1849) Ellen Gallavan *Maria* 1849; AOT, CON 41/35 Margaret McNamara *Martin Luther* No.1419 and AOT, RGD 35/5 1856 Hobart No.1153: Margaret James (2 March 1856).

³³¹ AOT, RGD 37/11 1852 Fingal No.84: Fleming/Styles (13 January 1852); AOT, RGD 35/23 1854 Fingal No.10: Ellen Styles (18 May 1854). See also AOT, RGD 33/32 1854 Fingal No.234: Mary Ann Styles (23 March 1854); AOT, RGD 35/23 1854 Fingal No.9: Mary Ann Styles; AOT, RGD 33/31 1853 Fingal No.182: Edward Styles (2 April 1853); AOT, RGD 35/22 1853 Fingal No.9: Edward Styles (18 June 1853).

³³² Joy Damousi, ' "Depravity and Disorder": The Sexuality of Convict Women', *Labour History*, No.68, May 1995, pp.30-45.

lives, emanates from a liberal notion of 'success' measured in terms of the establishment of the bourgeois nuclear family. Such an analysis, she stated, blamed the victim for failing to achieve such an ideal, rather than considering the wider forces which shaped the lives of these women.³³³ Nevertheless, material and economic success has been a constant focus of convict studies.

Success was also determined by the conditions in Van Diemen's Land. The deliberate arsonists were disadvantaged and vulnerable. As ex-convicts, they formed part of what Neal termed the 'non-respectable classes': the 'respectable classes' jealously guarded their social position and behaviour continued to be closely watched even when convicts were emancipated.³³⁴ Bennett also argued that socially, Van Diemen's Land had few of the egalitarian ideas of the nineteenth century that were observable in New South Wales: 'There was a conscious striving to completely transplant English social customs into the Colonial setting'.³³⁵ Very early, there developed a clear division between free settlers and emancipists, and it was extremely difficult for the latter to enter 'society'; the emancipists were, in fact, socially nearer the convicts. According to Bennett, the free colonists considered themselves the natural leaders of the colony by virtue of their moral superiority as free men in a penal society. Louisa Meredith commented:

Not in the most moral circles of moral England herself is a departure from the paths of virtue more determinedly or universally visited by the punishment of exclusion from society, than in this 'penal colony'; nowhere are all particulars and incidents of persons; past lives more minutely and rigidly canvassed than in the 'higher circles' of this little community; and

³³³ Damousi, 'Depravity and Disorder', p.30.

³³⁴ Neal, *The Rule of Law*, p.53. See also Waterhouse, *Private Pleasures, Public Leisure*.

³³⁵ Bennett, 'The Impact of the Victorian Goldrush', p.70.

nowhere are the decent and becoming observances of social and domestic life more strictly maintained.³³⁶

Emancipist behavior continued to be scrutinized: deliberate arsonists like Alice Julian and Catharine Conway had colonial offences recorded on their conduct records well after they were technically free, Alice in 1867 and Catharine in 1872.³³⁷

The majority of the women belonged to the unskilled working class in Ireland and remained in this occupational grouping after being transported. The women were, therefore, acutely vulnerable to those circumstances which increased the likelihood of destitution: unemployment or the loss of a breadwinner through death, illness, or desertion. This was particularly so when they were 'on their own hands', no longer sustained by the convict system. It is easy to view the deliberate arsonists as 'victims', abandoned by Imperial and colonial authorities. Yet, as Marilyn Lake suggested, the terms 'victim' and 'agent' are not necessarily mutually incompatible.³³⁸ The deliberate arsonists were vulnerable economically and socially, but successfully employed diverse survival strategies, including marriage, paid work, State and charitable assistance and to a much lesser extent, crime. Non-familial networks were also utilised. They were victims and agents. The deliberate arsonists were survivors, constantly adjusting to make the most of the circumstances in which they found themselves.

³³⁶ Mrs Charles Meredith, *My Home in Tasmania during a Residence of Nine Years*, Vol.1, 1852, p.36.

³³⁷ AOT, CON 41/35 Alice Julian *Martin Luther* No.443; AOT, CON 41/30 Catharine Conway *Blackfriar* 1851 No.1151. Catharine's conditional pardon was approved in 1858.

³³⁸ Marilyn Lake, 'Convict Women as Objects of Male Vision: An Historiographical Review', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.1, 1988, p.48.

Marriage as a survival strategy should not be underestimated. This was consistent with Irish rural tradition. Marriage enabled the formation of an economic unit. Choice of a successful life partner was crucial. Regular employment, particularly if a trade, or by owning land contributed to stability. As demonstrated, several of the deliberate arsonists formed durable partnerships. Others were acutely vulnerable because of illness, death and desertion.

For many of the deliberate arsonists, reliance on government or charitable assistance was critical. Some depended on public aid and assistance from the Benevolent Societies in Hobart and Launceston; others turned to institutions such as the Orphan School. The most vulnerable battled against poverty. Even those who married small farmers, such as Eliza Jones, struggled economically.³³⁹

Life for the aged poor in nineteenth century Tasmania shared many commonalities with life for the aged poor elsewhere.³⁴⁰ Yet few of the deliberate arsonists were institutionalised: two spent time in the New Norfolk Asylum for the Insane and another died in the New Town Charitable Institution.³⁴¹

The deliberate arsonists, once free, did not rely on crime to survive: they were not habitual criminals. This had not been the pattern in Ireland, nor was it the case in colonial Australia. Only one woman admitted to living by thieving in Ireland, for

³³⁹ AOT, CON 41/28 Eliza Jones *Duke of Cornwall* 1850 No.390.

³⁴⁰ Piper, 'Aged Poor', p.343; O'Brien, *Poverty's Prison*.

³⁴¹ AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208; AOT, CON 41/24 Susan Chickley *Australasia* 1849 No.1007; AOT, CON 41/20 Mary Sullivan 1st Lord *Auckland* (3) 1849 No.830.

six months only, and she had no colonial convictions.³⁴² Approximately 40 per cent of the deliberate arsonists had no colonial offences while serving their time. For the main part, the offences committed were minor, usually public order or work-related offences. Nor did the deliberate arsonists rely on prostitution to survive – or least, if they did so, they did not come to public notice. One-fifth of the deliberate arsonists had admitted to being ‘on the town’ in Ireland, but only one was accused of prostitution in Van Diemen’s Land.

The formation of close non-familial networks was another strategy for survival. Kith assumed greater importance in the absence of kin. Some women maintained at least some contact with each other while others joined with other Irish families, particularly in rural areas, creating strong and useful community networks. Some deliberate arsonists appeared as marriage witnesses for those with whom they were transported, and as baptism sponsors for their children.

Determining how successful the deliberate arsonists were in achieving their aim remains, to a large extent, problematic. It cannot be known, for example, what the lives of the women would have been like had they remained in Ireland. Had they survived the Famine and its aftermath, it is likely that they would have been characterised by poverty, and, given contemporary Irish demographic patterns, they may not have married or had a family.

³⁴² AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795.

The deliberate arsonists fit Luddy and Murphy's definition of 'survivors' – those women who continually adapted to and exploited situations in which they found themselves.³⁴³ As Luddy and Murphy stated, they had to be active and manipulative in order to survive. As Caroline Evans concluded from her study of working-class children, 'socio-economic and political powerlessness did not preclude individuals from exercising agency'.³⁴⁴ The women made choices affecting their own lives within the limited range of options open to them. Although their power to do so was not fixed, and varied over their life time, the deliberate arsonists were not passive victims but were active agents in the historical process.

³⁴³ Maria Luddy and Cliona Murphy, ' "Cherchez la femme": The Elusive Woman In Irish History' in Maria Luddy and Cliona Murphy (ed.), *Women Surviving. Studies in Irish Women's History in the 19th & 20th centuries*, Dublin, 1989, pp.1-14.

³⁴⁴ Caroline Evans, 'Protecting the Innocent: Tasmania's Neglected Children, their Parents and State Care, 1890-1918', unpublished Ph.D. Thesis, University of Tasmania, 1999, p.277.

Chapter Eight: Dying

The women who deliberately committed arson did so in order to improve their circumstances. For some, this was simply in response to an immediate need to overcome hunger and lack of accommodation; for others, there was a long-term desire to escape from poverty and 'to better their condition'.¹ An analysis of the deaths of the women is an important part of their story. Not only is it symbolically the end of their journey, but it provides a means by which to assess how effective they were in achieving their goals of a better life. Such a study is also important for what it reveals about their lives and experiences in Van Diemen's Land.

To a large extent, the treatment of women in death reflected their treatment in life. Except where their deaths had an impact on the administration of the colonial system, through the cessation of a labour supply or impact on the Colonial Treasury, the women were treated the same as the rest of the population, while the deaths of those under sentence were recorded separately. Government requirements to register deaths were no different for emancipated convicts than they were for society generally.

¹ See, for example, AOT, 41/36 and CON 15/8 Catherine Duggan *Midlothian* 1853 No.841; AOT, CON 41/36 and CON 15/8 Margaret Bourke *Midlothian* 1853 No.1213.

Few historians have considered convict death or burial.² This is partly because the resources that are available are mostly limited to civil registration and church records, with a bare minimum of information, but it is also largely a reflection of the convict historian's focus on the background or origins of the convict, and his or her life under sentence.

Even those historians who have looked in detail at convict life, such as Portia Robinson, have primarily considered birth and marriage, not death. Pat Jalland, in her study of the social and cultural aspects of Australian death, concentrated on free immigrant colonial society and skimmed over convict death, stating 'The early convict system has limited relevance in a study of death and mourning practices and attitudes in a free immigrant society'.³ David Kent and Norma Townsend's study of the convicts of the *Eleanor*, who arrived in 1831, is one of the few to consider convict death.⁴ Kent and Townsend examined the circumstances of the convicts at the time of their death, including their occupations, and their place of death. They argued that the circumstances of death can often be revealing about life, and can be taken as a measure of success. They concluded that 10 per cent of those deaths that could be identified took place in an asylum; another 10 per cent in a hospital. Overall, the colonial lives of the convicts of the *Eleanor* were not fundamentally different from

² See, however, Lynette Ross, 'Death and burial at Port Arthur 1830-1877', unpublished B.A. (Hons.) Thesis, University of Tasmania, 1995. This concentrates on male deaths at Port Arthur.

³ Pat Jalland, *Australian Ways of Death. A Social and Cultural History 1840-1918*, South Melbourne, 2002, p.2.

⁴ David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London and Annandale, NSW, 2002.

what they could have expected had they remained in England, except that they were not haunted by the spectre of hunger.⁵

Similarly, colonial authorities did not have an interest in convict death, except where it had an impact on the administration of the convict system. The Convict Death Register was created to keep track of convicts who died under sentence.⁶ Many of these deaths were not registered under the civil registration system.⁷ Civil registration of births, deaths and marriages was introduced in Tasmania in 1838. Information collected in the death registers consisted of name, age, sex and occupation of the deceased; date and cause of death; date and district of registration; name, description and residence of the informant; and name of the officiating registrar. From 1895, the registers also contained information about place of birth and death (recorded in Hobart since 1857 and Launceston since 1886), certifying medical practitioner and date and place of autopsy.⁸

Colonial authorities had even less interest in convict burial, and no records specifically relating to convict burial were created. Some church burial registers named convicts by ship, particularly if the convict died in a government institution, such as the Colonial Hospital. This is one of the few areas where the public and

⁵ Kent and Townsend, *The Convicts of the Eleanor*, pp.248-250.

⁶ AOT, CON 63/1-2 Convict Death Register.

⁷ For the development of civil registration, see Rebecca Kippen, 'Death in Tasmania. Using civil death registers to measure nineteenth-century cause-specific mortality', unpublished Ph.D. Thesis, ANU, 2002, pp.20-23. Kippen suggested (p.22) that the *Registration Act* (2 Victoria No.8 August 1838) 'specifically excluded convict population, their life events being recorded in separate registers.' However, this was not true for marriages and does not hold for all death registrations.

⁸ Kippen, 'Death in Tasmania', p.36.

private intersect – the government-run hospital recorded information about the civil status of the patient in order to determine who was responsible for the payment of fees and funeral expenses. The Imperial Government was responsible for convicts and ex-convicts who were unable to pay. Paupers who were colonial-born or who had arrived free were the financial responsibility of the Colonial government. Some convict paupers who died in the hospital had their coffin sent to the Cascades Factory for burial.⁹ Many convicts and ex-convicts were buried in unmarked graves, as were many of the poor. Burial was the final act, and it was private.¹⁰ Griffin and Tobin claim that convicts were ‘interred without much, if anything, beyond the reading of the burial service’.¹¹ It is interesting to note, however, that the register of deaths at the General Hospital, Hobart, includes many ex-convicts who were ‘buried by friends.’¹² As Karskens commented, ‘it is clear that the deciding factor for either proper funeral or pauper’s burial was not civil status, but whether or not the dead person had a network of family or friends to carry out the appropriate rituals.’¹³

Tracing deaths

Deaths have been definitely traced for just over one half of the deliberate arsonists.

There are a number of reasons for this. Because colonial administrators had only a

⁹ Joyce Purtscher (compiler), *Deaths at the General Hospital Hobart January 1864-June 1884*, Mt. Stuart, Tas., 1999. This is an index to AOT, HSD 145. See also W.G. Rimmer, *Portrait of a Hospital – The Royal Hobart*, Hobart, 1981, for a history of the Colonial Hospital, later known as the General Hospital and the Royal Hobart Hospital.

¹⁰ cf. Grace Karskens, ‘“Death was in his face”: Dying, Burial and Remembrance in Early Sydney,’ *Labour History*, No.74, 1998, pp.29-30, who says burial was a public spectacle, ‘finely calibrated in accordance with the dead person’s station and situation’.

¹¹ Graeme M. Griffin and Des Tobin, *In the Midst of Life: The Australian Response to Death*, Melbourne, 1982, p.90.

¹² Purtscher, *Deaths at the General Hospital Hobart*, and AOT, HSD 145.

¹³ Karskens, ‘Death was in his face’, p.30.

limited interest in the deaths of emancipated convicts, the only records that survive for this group are those which exist for the general population. Consequently, identifying individuals through the death registers can be difficult, particularly where names are common and there is no relevant secondary identifying information. Many emancipated convicts went to great lengths to cover their past. As well, information was often provided by those who did not necessarily know the background of the deceased. In the case of women, tracing deaths is complicated by their change of name on marriage, or the assumption of the name of a *de facto* partner.

Common names make it difficult to conclusively establish death for a number of the deliberate arsonists. Ellen Murphy, who arrived on the *Martin Luther*, married in 1857 a man named George Williams, a convict who arrived on the *Aboukir*.¹⁴ After the birth of their child in 1861, there is no definite record of the couple in Tasmania.¹⁵ Although there are several possibilities for Ellen's death in the records, it is difficult to be sure, given the limited amount of information on Tasmanian death certificates, which Ellen Williams (if any) is the one who arrived on the *Martin Luther*.

In some instances, it is only possible to pinpoint a likely death. For Anne Mahoney, who married William Bishop, all that can be said is that her death may be that of Ann Bishop, a sixty-year-old labourer's wife, who died of 'senility' on 14 December 1884

¹⁴ AOT, RGD 37/16 1857 Hobart No.326: Murphy/Williams (10 August 1857). There were two convicts named George Williams on the *Aboukir* in 1852; based on age, the one who married Ellen Murphy was probably George Williams 2nd: see AOT, CON 33/106 George Williams 2nd *Aboukir* 1852 No.25485.

¹⁵ AOT, RGD 33/39 1861 Brighton No.558: Thomas William Williams (18 June 1861).

in Launceston.¹⁶ There is insufficient corroborating evidence to conclude that they are the same woman. In the case of Ann Tuohy, who married George White in 1855, there is slightly more evidence. A likely death for Ann Tuohy is that of Ann White, a thirty-six year-old labourer's wife who died of consumption in 1857 in Launceston. The informant for the death was George White, of Launceston.¹⁷ Although no relationship is stated, it seems likely that this is Ann Tuohy who arrived on the *Arabian*.

In some cases, it is difficult to establish death details conclusively because of the difficulties created by name changes, spelling variations and inaccurate record-keeping. Some of the women changed their given name, or perhaps reverted to an original name. Alice Tobin, who arrived in 1852, appears to have died as 'Mary Thower' at Oatlands in 1900.¹⁸ Alice first married William Moy, who was admitted to the Asylum at New Norfolk in 1869 from Oatlands where the family had been living. Alice continued to live in Oatlands after her husband's death five months after his admission to the Asylum.¹⁹ In 1872, she was living in a rented house in

¹⁶ AOT, CON 41/12 and CON 15/4 Anne Mahoney *Arabian* 1847 No.739; AOT, RGD 37/12 1853 Longford No.1242: Mahoney/Bishop (2 March 1853). Her name was recorded as Ann on her death record: see AOT, RGD 35/53 1884 Launceston No.435: Ann Bishop (14 December 1884). Fox Bros., Undertakers, Launceston, registered the death.

¹⁷ AOT, RGD 35/26 1857 Launceston No.433: Ann White (25 November 1857). See also AOT, CON 41/12 and CON 15/4 Ann Tuohy *Arabian* 1847 No.286; AOT, RGD 37/14 1855 Launceston No.821A; RGD 37/15 1856 Launceston No.773: Tuohy/White (9 January 1855). The registrations are duplicates.

¹⁸ Tasmanian Death Certificate 1900 Oatlands No.0586: Mary Thower.

¹⁹ AOT, HSD 247/1 Folio 606: William Moy; AOT, RGD 35/5 1856 Hobart No.753: William Moy (23 September 1869). See also Legislative Council Paper No.47/1871 p.38: *Return of Persons who were in receipt of public funds on 1 December 1870*: in September 1869, Alice Moy received public aid because her husband was in the Asylum; she was still receiving assistance in December 1870.

Oatlands.²⁰ By 1877, the house was occupied by James Thrower.²¹ It seems likely that Alice (Tobin) Moy married James Thrower, and that he moved into her house. Although there is no marriage for Alice Moy or Tobin to James Thrower, there is a marriage for 'Mary' Moy, a forty-two-year-old widowed servant, to James Thrower in July 1874.²² James Thrower died in Oatlands in 1887.²³ In 1895, 'Mrs Thrower' was living in Barrack Street, Oatlands, and was still in the same house in 1898.²⁴ To further add to the confusion, created by different names, Mary Thrower's death was registered as Mary 'Thower', and she was stated to be the widow of W. Thower.²⁵

Some of the women seem to have interchanged the given names Margaret and Mary Ann: Mairead is the Irish name for Margaret, but its pronunciation is closer to that of Mary, and this may account for the confusion. Margaret Leggitt, who arrived in 1850, is just one example: she applied for permission to marry William Platt as Mary Ann, but married as Margaret.²⁶ On the birth of her son in 1854, she was named as Margaret.²⁷ Her husband's occupation at the time of marriage was a dealer; at the child's birth, a hawker.²⁸ The death registration of Mary Ann Platt, a clerk's wife aged fifty-nine, is possibly that of Margaret Leggitt. Born in Ireland, Mary Ann Platt

²⁰ HTG Valuation Roll 1872 p.262: Oatlands; HTG Valuation Roll 14 April 1874 p.55: Oatlands.

²¹ HTG Valuation Roll 1877 p.618: Oatlands.

²² AOT, RGD 37/33 1874 Oatlands No.597: Moy/Thrower (19 July 1874).

²³ AOT, RGD 35/56 1887 Oatlands No.1015: James Thrower (14 February 1887). This entry appears on the *Tasmanian Pioneers Index* as Thomas Thrower.

²⁴ HTG Valuation Roll 5 March 1895 p.643: Oatlands; HTG Valuation Roll 8 February 1898 p.432: Oatlands.

²⁵ Tasmanian Death Certificate 1900: Mary Thower No.0586.

²⁶ AOT, RGD 37/13 1854 Hobart No.400: Leggett/Platt (17 July 1854).

²⁷ AOT, RGD 33/5 1854 Hobart No.1440: male Platt (19 October 1854).

²⁸ AOT, RGD 37/13 1854 Hobart No.400: Leggett/Platt (17 July 1854); AOT, RGD 33/5 1854 Hobart No.1440: male Platt (19 October 1854).

died in 1881 at the New Town Charitable Establishment.²⁹ There is no other identifying information.

Variations in the spelling of names also complicate tracing deaths. This is exemplified by the case of Mary Bryan, who arrived on the *John William Dare*, and married Michael Burns in 1854.³⁰ There are many variations in spelling of both Burns and Byrne, and, given the popularity of the names Mary and Michael, it has proved difficult to locate Mary (Bryan) Burns' death.

In some instances, there are discrepancies in the information on the death certificate which raise doubts about the death being the relevant one. Often, however, the information was supplied by someone who may not have known the deceased's personal circumstances. Catherine (Hayes) Hanley probably died in 1891: the death certificate notes that Catherine Hanley, a sixty-year-old widow, was born in England, not Ireland. The informant was the undertaker, not a family member, and may have not have been familiar with her background.³¹

Not all deaths were registered.³² In 1847, Denison considered abolishing the registration system: 'the state of the population of this country, thinly scattered over the different districts, renders it impossible to carry out the plan efficiently with a due

²⁹ AOT, RGD 35/9 1881 Hobart No.3153: Mary Ann Platt (4 May 1881).

³⁰ AOT, RGD 37/13 1854 Hobart No.265: Bryan/Burns (22 May 1854).

³¹ AOT, RGD 35/13 1891 Hobart No.897: Catherine Hanley (20 December 1891). The death was registered by Alex Clark, undertaker. See also TFHS Inc. Hobart Branch (compiler) *Undertakers of Hobart Vol. II 1885-1907 Index to Alex Clark & Son Funeral Records*, Hobart, 2002, Book 3/499.

³² Kippen, 'Death in Tasmania', pp.24-27.

regard to economy.³³ However, by the 1850s, death registration had improved to the point where it was almost complete.³⁴ In some instances, deaths were registered more than once.³⁵ Eliza Morrison was a twenty-year-old housemaid when she arrived on the *Earl Grey* in 1850. According to her convict conduct record, she died in H.M. General Hospital on 1 July 1855. Her death was recorded in the Convict Death Register: this noted that she held a ticket-of-leave and died on 1 July 1855 aged twenty-five at H.M. Hospital, Hobart Town.³⁶ A friend named Clarke, of Argyle Street, registered her death, on 6 July. According to this record, Eliza Morrison was a twenty-year-old spinster.³⁷ The death was also registered by the Superintendent of the General Hospital, who stated that Eliza Morrison was a twenty-eight-year-old servant.³⁸ Both registrations attributed death to disease of the lungs. The dual civil registration is interesting not only because of the minor variations in detail – such as age – but also because it indicates a network of friendship which existed among convicts which extended to fulfilling civil responsibilities, such as registering deaths.

Every effort has been made to locate the deaths of the deliberate arsonists but some disappeared without trace. Ellen Quirk, who arrived on the *Martin Luther*, was granted a conditional pardon in 1855. After her marriage in 1857, there is no

³³ AOT, LCT 20/7/1847; Kippen, 'Death in Tasmania', p.29.

³⁴ Kippen, 'Death in Tasmania', p.35.

³⁵ See Kippen, 'Death in Tasmania', p.25, for a discussion of possible reasons for double registration.

³⁶ AOT, CON 63/2 'Elisa' Morrison *Earl Grey* No.1093 (1 July 1855).

³⁷ AOT, RGD 35/5 1855 Hobart No.37: Eliza Morrison (6 July 1855).

³⁸ AOT, RGD 35/5 1855 Hobart No.127: Eliza Morrison (6 July 1855).

evidence of Ellen or her husband.³⁹ Tracing them is complicated by the fact that her husband had at least three names – Charles Sylvester; James Andrews; and Thomas Burnett – and a complicated history characterised by disappearing.⁴⁰ No evidence of Ellen (Quirk) Sylvester has been found after her marriage.

As noted in the previous chapter, there is no evidence that any of the deliberate arsonists returned to Ireland. Practically and legally, it was difficult to do so but some of the deliberate arsonists may have managed to do so, which could explain why some cannot be traced. Rosanna Berry, who married John Ding was granted a conditional pardon in 1856, and received a free certificate in 1867; this was the last record of her.⁴¹

Some of the deliberate arsonists moved interstate. Others may have gone to New Zealand. At least nine died interstate, four in New South Wales and five in Victoria. Mary (Nowlan) Patterson, aged forty-three, died in 1867 at Birch Grove, Balmain, NSW.⁴² Two women died in Bombala in southern NSW. Mary (McCarthy) Rogers

³⁹ AOT, RGD 37/16 1857 Hobart No.442: Quirk/Sylvester (23 March 1857).

⁴⁰ As Charles Sylvester, he arrived in Van Diemen's Land in 1850, tried in London in 1847, and was transported for 10 years. In 1854, his existing sentence of transportation was extended 12 months for absconding; in August 1853, he was apprehended in Sydney when he was tried as James Andrews *Meteor* at Sydney Supreme Court. He was also identified as a runaway convict from New South Wales, who was known as Thomas Burnett per *Eden*, tried in London in 1840 and sentenced to transportation for 15 years. Sylvester's conduct record noted that, as a result of his cumulative sentences, he would not be free until 1868 and that he was to be removed to Sydney at the expiration of his sentences. In 1856, however, he was granted a ticket-of-leave. Sylvester was recommended for a conditional pardon in February 1857, shortly before his marriage; the pardon was granted on 29 September 1857. See AOT, CON 33/99 Charles Sylvester *Rodney* (1) 1850 No.23408.

⁴¹ AOT, RGD 37/13 1854 Hobart No.620: Berry/Ding (7 January 1854); AOT, CON 41/35 Rosanna Berry *Martin Luther* 1852 No.1198; *HTG* 20 May 1856 p.671: 'Rosannah' Berry.

⁴² NSW Death Certificate 1867 No.002254: Mary Ann Patterson (2 September 1867).

died there in 1878 at the age of forty-six.⁴³ Margaret (Foley) Snell, aged sixty, died there in 1898.⁴⁴ Ann Corry, aged seventy, died as Mary Ann Gallagher in Glen Innes in 1905.⁴⁵ Celia (Kavanagh) Hurley, also died interstate; aged fifty-nine, she in died in Sandringham, Victoria, in 1894.⁴⁶ Ellen (Ryan) Dwyer, aged fifty-five, died at Dunnstown, Warrenheip, Victoria, in 1888 and was buried at Ballarat.⁴⁷ Mary (Madigan) Hutchins died at the age of sixty-eight at Fitzroy South in Victoria, and was buried in the Melbourne General Cemetery.⁴⁸ As 'Mary Helen Dickenson', Ellen (Murphy) Dickenson also died in Victoria, in 1889 at Port Melbourne; she was fifty-four.⁴⁹ Eighty-five-year-old Alice (Julian) Walker died in 1920 in Melbourne.⁵⁰ Bridget (Delaney) Lowry may also have died interstate: although her death has not been located, her son, James Martin Lowry was born in July 1860 at Mt Blackwood, Victoria.⁵¹

Examining the age, place and cause of death can reveal something of lifestyle and life experience, and can thus contribute to an understanding of the fourth question of this

⁴³ NSW Death Certificate 1878 No.4679: Mary Rogers (d. Bombala, registered Berrima). Her husband, John Rogers, died in Bombala aged 70: see NSW Death Certificate 1885 No.11892: John Rogers.

⁴⁴ NSW Death Certificate 1898 No.008824: Margaret Snell (9 July 1898). Her husband, Michael Snell, also died in Bombala the same year: NSW Death Certificate 1898 No.013099: Michael Snell (1 October 1898).

⁴⁵ NSW Death Certificate 1905 No.008779: Mary Ann Gallagher (21 August 1905).

⁴⁶ Victorian Death Certificate 1894 No.3784: Celia Hurley (February 1894).

⁴⁷ Victorian Death Certificate 1888 No.7986: Ellen Dwyer (24 April 1888). See also Victorian Birth Certificate 1871 No.12948: Anthony Dwyer.

⁴⁸ Victorian Death Certificate 1900 No.5363: Mary Ann Herilds Hutchins (1 April 1900).

⁴⁹ Victorian Death Certificate 1889 No.9210: Mary Helen Dickenson (21 June 1889).

⁵⁰ Victorian Death Certificate 1920 No.13579 Alice Walker (3 December 1920).

⁵¹ Victorian Birth Certificate 1860 No.13261: James Martin Lowry (17 July 1860).

thesis: that is, the colonial experience of the deliberate arsonists and whether they succeeded in changing their circumstances.

Age at death

Carmichael argued that lower mortality in the Australian colonies than in England was a recurring theme in nineteenth-century actuarial studies, and that this was attributed to a healthier climate, an absence of famine, the selection of migrants for physical robustness, better nutrition and less poverty, overcrowding and the exploitation of child labour. The first Australian life table, constructed for New South Wales from 1856 to 1866, demonstrated a higher life expectancy at birth for colonial white men and women: 45.6 years compared to 40.9 years for England.⁵² From her study of death in Tasmania, Kippen established that, over the period 1860–1899, life expectancy at birth in Tasmania stood at around 50–55 years; however, this increased markedly for those who survived infancy and childhood. She concluded that at age 20, Tasmanians could expect to live, on average, for another 40–45 years. At age 50, life expectancy was more than 20 years. In comparison, life expectancy at birth by the end of the nineteenth century in England and Wales was 50 years for females: approximately 30 per cent of the population could expect to live beyond 70 years.⁵³

⁵² Gordon A. Carmichael, 'So Many Children. Colonial and Post-Colonial Demographic Patterns', in Kay Saunders and Raymond Evans (eds.) *Gender Relations in Australia. Domination and Negotiation* Sydney, 1992, p.132. Colonial infant mortality rates were also lower.

⁵³ Kippen, 'Death in Tasmania', p.219.

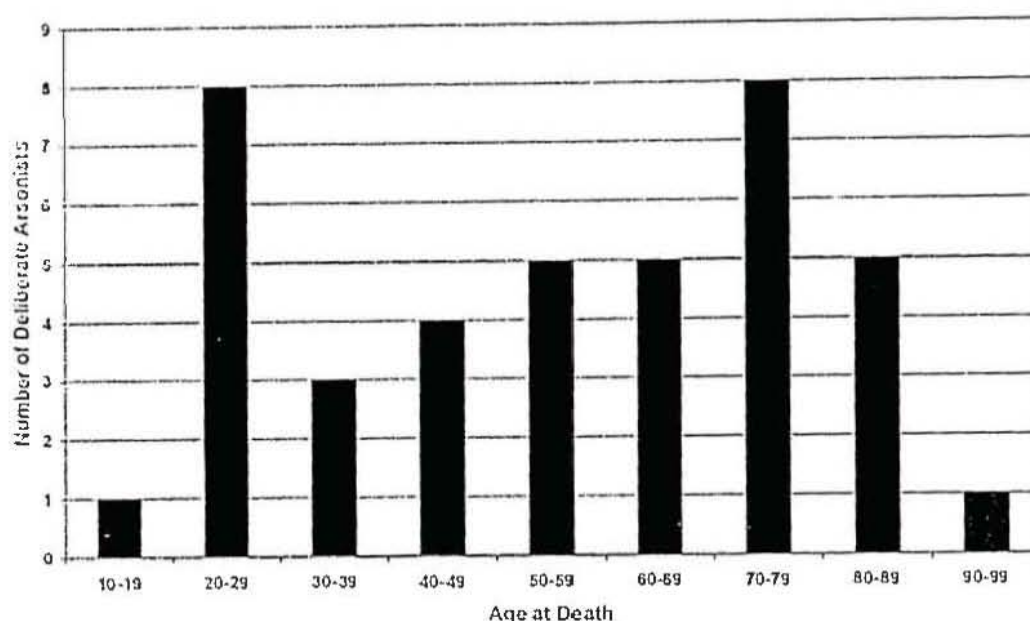


Figure 48: Age at death of deliberate arsonists (n=40).

The average age at death for the deliberate arsonists was 55 years.⁵⁴ Surprisingly, given the harsh conditions that characterised the lives of many of the women, several lived to their seventies and eighties. The oldest was Alice Collins, who died at the age of ninety, in 1918.⁵⁵ Mary (Sullivan) Thickens, who died in 1906;⁵⁶ Margaret (Keogh) Wallace, who died in 1912;⁵⁷ and Mary (Leyne) Conley, who died in 1913,⁵⁸

⁵⁴ For a comparison with Ireland, L.A. Clarkson, 'Love, Labour and Life: Women in Carrick-on-Suir in the Late Eighteenth Century', *Irish Economic and Social History*, Vol.XX, 1993, pp.18-34.

⁵⁵ AOT, NS 1052/55 Deloraine Tombstone Inscriptions No.21.

⁵⁶ Tasmanian Death Certificate 1906 Hobart No.0440: Mary Ann Thickens (19 August 1906); SRCT, Record ID 14798, Pauper, Section A, No.243: Mary Ann Thickens.

⁵⁷ Victorian Death Certificate 1912 No.5676: Margaret Wallace (23 May 1912); *Examiner* 27 May 1912 and Margaret Siegmann, *Wexford to Van Diemen's Land. The Kehoe Family in Tasmania from 1843*, the author, January 1993, p.82.

⁵⁸ Bruny Island Historical Society, 'The Conley Family History by Valma Conley nee Pybus 2000 and updated by Kathy Duncombe 2003', unpublished manuscript.

were all eighty-three. Elizabeth (Quinn) Goram was eighty.⁵⁹ Those who died in their seventies included Margaret (Leary) Nichols, who died in 1901 aged seventy-eight;⁶⁰ Susan (Chickley) Merrick, who died in 1908 aged seventy-six;⁶¹ and Ann (Corry) Gallagher, who died in 1905 aged seventy.⁶²

In contrast, several died at a relatively young age. The youngest death was that of Jane Allen, who was probably nineteen when she died the year after her arrival, after giving birth to a still-born child.⁶³ As demonstrated in Figure 48, at least eight deliberate arsonists died in their twenties.⁶⁴

Place of death

From the time of the first colonial settlement in Australia, it was widely believed that dying, death and the care of the dead ideally should take place within a household rather than an institution.⁶⁵ Convict deaths were no different, although circumstances often dictated the place of death. This is perhaps most obvious in the case of deaths

⁵⁹ SRCT, Record ID 16422, RC, Section G, No.30: Elizabeth Goram; TFHS Inc. Hobart Branch, *Undertakers of Hobart. Vol.1. Index to Pierce J. Keating Funeral Records 1895-1964*, Hobart, 2001, No.1/79; AOT, AD 960/30 p.438 Will No.8193 (1910): Elizabeth Goram.

⁶⁰ Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nichols (28 November 1901). She had been married 48 years when her 80-year-old husband, a painter, died in 1895, and she had at least 6 children.

⁶¹ AOT, RGD 27/1 1908 Oatlands No.329: Susan Merrick (6 June 1908).

⁶² NSW Death Certificate 1905 No.008779: Mary Ann Gallagher (21 August 1905).

⁶³ AOT, CON 41/30 Jane Allen *Blackfriar* 1851 No.272; AOT, RGD 35/17 1852 Launceston No.650: Jane 'Allan' (7 August 1852). She was 18 when she arrived in March 1850.

⁶⁴ AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356; AOT, CON 41/22 Ellen Gallavan *Maria* (2) 1849 No.495; AOT, CON 41/26 Jane Williams 2nd *Earl Grey* 1850 No.855; AOT, CON 41/26 Ellen Fleming *Earl Grey* 1850 No.451; AOT, CON 41/30 Margaret Lehane *Blackfriar* 1851 No.484; AOT, CON 41/30 Ann Blake *Blackfriar* 1851 No.1106; AOT, CON 41/35 Margaret McNamara *Martin Luther* No.1419.

⁶⁵ Griffin and Tobin, *In the Midst of Life*, p.4. See also Karskens, 'Death was in his face', pp.21, 25; John Hirst, *Convict Society and its Enemies*, Sydney, 1983, p.69; and Grace Karskens *The Rocks: Life in Early Sydney*, Melbourne, 1997, esp. Part 1.

at sea, where convict death and burial, perhaps reflecting the convict's status as cargo, typically were anonymous and lacked dignity.⁶⁶ It also can be seen in the place of death of convicts under sentence, most of whom were admitted to hospital and died there.

Death at sea

Death rates on convict ships were low in comparison with other contemporary transoceanic voyages on British ships.⁶⁷ According to Robin Haines, on convict ships and government-sponsored assisted immigrant vessels, disease and death were contained by stringent sanitary measures centering on supervised cleanliness and overseen by officially-appointed surgeon-superintendents.⁶⁸

At least one of the deliberate arsonists died at sea. Bridget Butler died on board the *Australasia* in 1849.⁶⁹ She had been tried with her daughter, Ann Corry, in 1848 in County Clare.⁷⁰ Jalland wrote convincingly of the immigrant fear of 'a watery

⁶⁶ Jalland, *Australian Ways of Death*, p.32.

⁶⁷ Robin Haines, *Life and death in the Age of Sail. The passage to Australia*, Sydney, 2003, p.47.

⁶⁸ Haines, *Life and death*, pp.46-47.

⁶⁹ AOT, Adm. 101/6 Reel 3189: Surgeon's Report *Australasia* 1849. Another arsonist to die at sea was Honora Heher or Hehir, tried County Clare on 6 July 1849, and sentenced to transportation for 10 years; she had 1 child with her. See *Irish Transportation Registers*: TR9 p.11 Honora Heher. The register recorded the ship as *Duke of Cornwall*. However, Honora was transported on the *Earl Grey* in 1850: see AOT, CON 41/26 Honora Hehir *Earl Grey* 1850. See also *Clare Journal* 9 July 1849 p.2 col.2.

⁷⁰ *Irish Transportation Registers* TR9 p.10; AOT, CON 15/6 Bridget Butler *Australasia* 1849. The *Freeman's Journal* 3 March 1849 p.2 col. 1 reported that they had burned Mary Hickey's house at Killard after she had turned them out as 'bad characters'. They immediately confessed. According to Ann Corry's indent, she was tried with her mother, Mary Butler, who died on board the *Australasia*. There is no record of a Mary Butler on board with Ann Corry. See AOT, CON 15/6 Ann Corry *Australasia* 1849 No.1000. Ann Corry's indent also noted that she had brothers, John and Pat, 'prisoners twelve months since' and a sister, Margaret, 'a prisoner 10 years', transported on the *Kinnear*: see AOT, CON 41/19 Margaret Quealy *Kinnear* 1848 No.26.

In all, five members of the Butler or Corry family from County Clare were sentenced to transportation.

grave',⁷¹ and there is no reason to assume that those on convict transports did not share this fear. Jalland stated that for some, burial at sea was 'the heathen antithesis of a good Christian death'.⁷² It was 'an utterly unnatural and Christian form of disposal of the human body, lacking the familiar church ritual and community support and leaving no grave as a memorial'.⁷³ For convicts like Bridget Butler, no information about their burial survives. There is, for example, no mention of a burial service for Bridget Butler in the surgeon's report. It is as though once she died, and her death had been duly noted, his responsibility for her ceased. Yet in many cases of burial at sea, the captain or the surgeon read the burial service. Where the deceased was Catholic, the matter was complicated by the fact that many Catholics preferred no burial service to a Protestant one.⁷⁴

How much bargaining power a deceased convict woman had in determining her burial service is problematic. Unlike free immigrants, she most likely had no friends or family to see that her wishes were carried out, or who were in a position to complain formally if they were not.⁷⁵ Bridget Butler's convict daughter, sixteen-year-old Ann Corry, was on board with her but it is unlikely that, had she voiced her mother's wishes, she would have been listened to. Jalland described the distinctions made according to class and gender in shipboard burial services; married women in steerage were accorded little respect, with bodies being thrown overboard, with no

⁷¹ Jalland, *Australian Ways of Death*, pp.15-32.

⁷² Jalland, *Australian Ways of Death*, p.25. See also pp.46, 48.

⁷³ Jalland, *Australian Ways of Death*, p.25.

⁷⁴ Jalland, *Australian Ways of Death*, p.19.

⁷⁵ Haines, *Life and death*, p.58: assisted immigrants, interviewed on arrival, could complain if proper burial services were not carried out.

service, shortly after death.⁷⁶ Jalland also argued that 'Life and death were much harsher in steerage ... with no space or time for deathbed scenes and the minimum of medicine and nutritious food required for terminal care.'⁷⁷ Dead convicts may simply have been thrown overboard, jettisoned as unwanted or excess cargo. In the absence of records, it is difficult to know. That the burial was not considered worthy of recording indicates the insignificant place of convict death to those in authority on board.

Institutional death

Many convicts and emancipated convicts died in penal or charitable institutions. In his study of charitable institutions in Queensland to 1919, Evans argued that the treatment of the poor and other marginalised groups was the extension of 'the punitive and primitive patterns of control which applied to a convict society'.⁷⁸ Institutions in the second half of the nineteenth century housed many of the destitute aged and sick. Many died in public institutions such as lunatic asylums, benevolent asylums and hospitals, in depressing, overcrowded conditions. The grim physical conditions were mirrored by the contemporary repressive philosophy of the 'deserving' and 'undeserving' poor, and by the notion of 'social Darwinism' which dictated that public funds should not be wasted on prolonging the lives of the weak or

⁷⁶ Jalland, *Australian Ways of Death*, pp.21-22.

⁷⁷ Jalland, *Australian Ways of Death*, p.26.

⁷⁸ R.L. Evans, 'The Hidden Colonists: Deviance and Social Control in Colonial Queensland', in Jill Roe (ed.), *Social Policy in Australia: Some Perspectives, 1901-1975*, Sydney, 1976, pp.74-100.

deformed.⁷⁹ Convicts and emancipated convicts, tainted by their convictism, were doubly-blemished.

Some deliberate arsonists had little opportunity to improve their circumstances, dying in hospital soon after their arrival in Van Diemen's Land. Two – Ellen Gallavan and Jane Williams – died within days of arrival. Twenty-four-year-old Ellen Gallavan became ill during the voyage of the *Maria* in 1849, and was admitted to the sick list on 6 June 1849 suffering from dysentery. On 24 July 1849, she was admitted to the Colonial Hospital in Hobart Town, 'exceedingly debilitated & emaciated.' During the voyage, she had suffered great pain in the fundament – 'resembling labour pains' – and was passing blood with her motions.⁸⁰ On 3 August 1849, nine days after her arrival, Ellen Gallavan died in the hospital in Hobart.⁸¹ There is no record of her burial.

Jane Williams, who arrived on the *Earl Grey* on 9 May 1850, died on 3 June 1850 at the Colonial Hospital in Hobart.⁸² During the voyage, she had suffered from chronic diarrhoea. She was originally placed on the sick list in February and March with incipient phthisis, and, although this had not developed into a serious case of tuberculosis, she was frequently 'affected with a very relaxed state of bowels' and her

⁷⁹ See Jalland, *Australian Ways of Death*, pp.199-218 for an account of death in benevolent asylums in the Australian colonies, and esp. pp.200-206 for a comparative statistical analysis. For Tasmania specifically, see Joan C. Brown, 'Poverty is Not a Crime': *The Development of Social Services in Tasmania 1803-1900*, Hobart, 1972.

⁸⁰ AOT, Adm.101/49 Reel 3203: Surgeon's Report *Maria* (2) 1849.

⁸¹ AOT, CON 63/2 Ellen Gallavan *Maria* (2) 1849 No.495.

⁸² AOT, CON 41/26 Jane Williams *Earl Grey* 1850 No.855. There were 3 women of this name on the *Earl Grey*. The recorded date of her death varies.

general health was 'very delicate'. She was sent to hospital on arrival in Hobart.⁸³ Her name was entered in the burial register for Holy Trinity Church by E.H. Bryan, who noted that she had died on 7 June 1850 in the Colonial Hospital; that she was twenty-two; and had arrived on the *Earl Grey*.⁸⁴ Her death was also recorded in the Convict Death Register, which noted that she died on 3 June 1850 in the hospital, Hobart, aged twenty-three.⁸⁵

Maria Lynch, who was described as a twenty-year-old farm servant or housemaid from Galway when she arrived in 1845, died in the General Hospital less than a year after arrival. Her age was recorded as twenty-two. No cause of death was recorded in the Convict Death Register and no details of her burial are known.⁸⁶ The minimalist records of her death indicate that, for the convict authorities, recording her death was simply bureaucratic house-keeping.

Several other women died while still under sentence, and this may have determined their place of death. Margaret Lehane, who arrived in 1851, died on 1854 in the Female House of Correction, Hobart. She had been sent there in January 1853, sentenced to eighteen months' hard labour for absconding. Her death was noted on her conduct record and in the Convict Death Register, but no cause of death was

⁸³ AOT, Adm.101/21 Reel.3193: Surgeon's Report *Earl Grey* 1850.

⁸⁴ AOT, RGD 34/2 1850 No.1868: Jane Williams (7 June 1850).

⁸⁵ AOT, CON 63/2 Jane Williams 2nd *Earl Grey* No.855 (3 June 1850).

⁸⁶ AOT, CON 41/5 Maria Lynch *Tasmania* (2) 1845 No.356; AOT, CON 63/2 Maria Lynch *Tasmania* (2) 1845 No.356 (25 October 1846).

supplied.⁸⁷ Ann Blake arrived in 1851 and died four years later in H.M. General Hospital, Hobart, in 1855.⁸⁸ Ann Blake's death was also recorded in the Convict Death Register, noting her civil status – 'TL' – as well as the date and place of her death, and her age.⁸⁹ Little information is known about her admission to hospital or her death there, except that her death was recorded on her conduct record, emphasizing that the only relevance her death had to the colonial authorities was as part of the convict system.

At least three emancipated convict woman died in hospital. Elizabeth Coghlan, who arrived in 1849 and received her Certificate of Freedom in 1854, died in hospital after nearly thirteen years in Van Diemen's Land.⁹⁰ As Elizabeth Coghlan *ux* Ellerslie, a servant, she was admitted to the General Hospital in Hobart in July 1863, suffering from phlebitis; she died there on 2 November 1864.⁹¹ Application was made for her three young children to be admitted to the Orphan School in February 1865. This application reveals that Elizabeth was considered 'a most respectable woman' who had died after 'a long illness & great suffering'.⁹² Mary (Hennessey) 'Burch' died on

⁸⁷ AOT, CON 41/30 Margaret Lehané *Blackfriar* 1851 No.484; AOT, CON 63/2 Margaret Lehané *Blackfriar* 1851 No.484 (31 May 1854).

⁸⁸ AOT, CON 41/30 Ann Blake *Blackfriar* 1851 No.1106.

⁸⁹ AOT, CON 63/2 Ann Blake *Blackfriar* 1851 No.1106.

⁹⁰ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* Ellerslie (2 November 1864).

⁹¹ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* Ellerslie (2 November 1864); AOT, HSD 145: Elizabeth Coghlan *ux* Ellerslie. Phlebitis is the inflammation of the wall of a vein, and it can be caused by nearby infection, trauma, surgery, and childbirth.

⁹² AOT, SWD 26/8 1865-1866: Hilsley. For a discussion of the medical treatment of the morally deserving, see Evans, 'The Hidden Colonists', pp.74-100.

19 December 1867 of 'phthisis pulmonalis' at the General Hospital, Hobart.⁹³

Margaret (Foley) Snell died in the Bombala Hospital in New South Wales in 1898.⁹⁴

Deaths in pauper institutions were mostly undignified, and the dying were treated perfunctorily. Jalland explained this indifference arising from 'the common assumption that paupers were not likely to be Christians – pauperism implied irreligion and sinfulness as well as a failure in morality'.⁹⁵ Pauper burials reflected this: Jalland asserted that there was no provision for religious service over the bodies of inmates of benevolent asylums.⁹⁶ Paupers were buried in non-denominational graves, and pauper burial was widely feared.⁹⁷

Dread of the workhouse had been widespread in Ireland at the time the arsonists were transported, with many of the Irish poor seeing the workhouse as a place to be feared and a place of death.⁹⁸ By 1871, Tasmania had three pauper institutions. In Hobart, there was the Brickfields and Cascades, and in Launceston, the Invalid Depot. In 1871, the Royal Commission Report on Charitable Institutions stated: 'It is positive cruelty to make this misplaced, gloomy old prison, with all its penal associations, a

⁹³ AOT, RGD 35/7 1868 Hobart No.7093: Mary Burch (19 December 1867).

⁹⁴ NSW Death Certificate 1898 No.008824: Margaret Snell (9 July 1898).

⁹⁵ Jalland, *Australian Ways of Deaths* pp.199, 208, 216-218.

⁹⁶ Jalland, *Australian Ways of Death* pp.215-216. See also Robert Nicol, *At the End of the Road: Government, Society and the Disposal of Human Remains in the Nineteenth and Twentieth Centuries*, Sydney, 1994, pp.6, 27-34.

⁹⁷ Ruth Richardson, *Death, Dissection and the Destitute*, London, 1987, pp.261-281.

⁹⁸ Timothy W. Guinnane and Cormac Ó Gráda, 'Workhouse Mortality and the Great Irish Famine', in Tim Dyson and Cormac Ó Gráda (eds), *Famine Demography*, Oxford, 2002, pp.44-64. See also O'Connor, John, *The Workhouses of Ireland. The fate of Ireland's poor*, Dublin: Anvil Books, 1995.

refuge for invalids'.⁹⁹ An inquiry in 1889 gave a rare glimpse into the treatment of the institutionalised dead:

A few [inmates] appeared to be on the verge of eternity and one in the female division had just 'passed away' before we entered the room. The corpse was covered with a sheet and was placed on a mattress on the floor, where it was to rest until the morning, surrounded by the 30 or more occupants of the ward, who appeared unaffected by this, or the happy release of one of their number.¹⁰⁰

Most of the deliberate arsonists escaped an institutional death: only one death was found in a pauper institution; another died in the Asylum for the Insane at New Norfolk. Mary Sullivan 1st, who arrived on the *Lord Auckland* (3) in 1849, died in the New Town Charitable Institution on 19 August 1906. Two days later, she was buried in a pauper's plot at Cornelian Bay cemetery.¹⁰¹ Mary Nolan alias Butler, who committed arson in the hope of joining her daughter in Van Diemen's Land, died of 'natural decay' while a patient of the New Norfolk Asylum in September 1872. A seventy-five-year old pauper, she had been admitted to the Asylum in 1862.¹⁰²

Died at home or with family

Nineteenth-century beliefs about dying, death and the care of the dead determined that, ideally, death should take place within a household rather than an institution, and

⁹⁹ Tasmania, House of Assembly Journals, 1871, Vol.XXII, *Report of the Royal Commission on Charitable Institutions* Parliamentary Paper 63, p.440; Jalland *Australian Ways of Death* p.212.

¹⁰⁰ Tasmania, House of Assembly Papers, 1887, Paper 10, cit Brown, *Poverty is Not a Crime*, p.102. For conditions in 1906, see Brown, *Poverty is Not a Crime*; Jalland, *Australian Ways of Death* p.213.

¹⁰¹ Tasmanian Death Certificate 1906 Hobart No.0440: Mary Ann Thickens (19 August 1906); SRCT, Record ID 14798, Pauper, Section A, No.243: Mary Ann Thickens. She married convict Samuel 'Thickers' in 1851: see AOT, RGD 37/10 1851 Hobart No.533: Sullivan/Thickens (12 May 1851).

¹⁰² AOT, RGD 35/41 1872 New Norfolk No.337: Mary Nowlan. See also AOT, CON 41/28 Mary Nolan alias Butler *Duke of Cornwall* 1850 No.208. G.F. Huston, Superintendent and Medical Officer of the New Norfolk Hospital for the Insane, registered her death.

this was the case for at least two of the deliberate arsonists.¹⁰³ Ellen (Wiseman) Cousins died in 1900 in Launceston at the home of her son-in-law, Mr W. Benneworth.¹⁰⁴ Her husband, Rheuben Cousins of the Black Sugar Loaf, predeceased her. Margaret (Keogh) Wallace, who arrived on the *Midlothian* in 1853, died in 1912 at the residence of her son-in-law in Footscray, Melbourne.¹⁰⁵ According to family information, she was buried with her husband, James Wallace, at the Cypress Street Cemetery, Launceston.¹⁰⁶

Cause of death

Like place of death, cause of death can reveal something of lifestyle and life experience, and can thus contribute to an understanding of the fourth question of this thesis: that is, the colonial experience of the deliberate arsonists and whether they succeeded in changing their circumstances. However, determining the cause of death and classifying it can be difficult.¹⁰⁷ Nosological conventions varied and causes of death were variously described, complicating comparisons.¹⁰⁸ As Haines warned, 'we must remain aware of the vagueness of diagnoses, the difficulties of interpretation and the competence of the recorders'.¹⁰⁹ Until 1895 in Tasmania, certification of cause of death by a registered medical practitioner was not legally

¹⁰³ Griffin and Tobin, *In the Midst of Life*, p.4. See also Karskens, 'Death was in his face', pp.21, 25; Hirst, *Convict Society and its Enemies*, p.69; and Karskens *The Rocks*, esp. Part 1.

¹⁰⁴ Tasmanian Death Certificate 1900 No.0225: Ellen Mary Cousins (29 August 1900); *Examiner* 30 August 1900 p.1. col.1

¹⁰⁵ Victorian Death Certificate 1912 No.5676: Margaret Wallace (23 May 1912); *Examiner* 27 May 1912 p.1 col.1.

¹⁰⁶ Siegmann, *Wexford to Van Diemen's Land*, p.82.

¹⁰⁷ For an analysis of the main reasons for colonial mortality, see Carmichael, 'So Many Children', in Saunders and Evans (eds.), *Gender Relations*, p.132. For classifications, see Kippen, *Death in Tasmania*, p.74.

¹⁰⁸ Kippen, *Death in Tasmania*, p.74; Haines, *Life and death*, pp.56-59.

¹⁰⁹ Haines, *Age of Sail*, p.57.

required.¹¹⁰ According to Kippen, causes of death may be problematic because of the use of inappropriate and inaccurate terms as well as 'vague inquest findings; the recordings of signs and symptoms rather than an actual cause of death; changing medical knowledge and diagnostic fashions; conflation and confusion of certain diseases; the difficulty of determining a primary cause of death; and the stigma attached to particular causes of death.'¹¹¹ In Tasmania, from the early 1850s, a mortality study was undertaken by medical practitioner, statistician and public health advocate, Edward Swarbreck Hall, who developed his own system of classification.¹¹² Kippen's study determined that the following were significant causes of mortality in nineteenth-century Tasmania: diseases of the respiratory system, 13.2 per cent and tuberculosis, 7.7 per cent; diseases of the circulatory system, 10.1 per cent; old age and decay, 9.4 per cent; convulsions and teething, 6.7 per cent; and accident, 6.5 per cent.¹¹³ Among the deliberate arsonists, death records have been located for over half and cause of death has been ascertained for thirty-eight. As can be seen in Figure 49, of these, 24 per cent died from diseases of the respiratory system; 24 per cent died from diseases of the circulatory system; 18 per cent died of old age and decay; 5 per cent died in childbirth; 5 per cent died from diseases of the digestive system; and 5 per cent died accidentally. In the remaining cases, the cause of death was not clear or it was the result of a combination of factors.

¹¹⁰ Kippen, *Death in Tasmania*, p.74.

¹¹¹ Kippen, *Death in Tasmania*, p.74.

¹¹² Kippen, *Death in Tasmania*, pp.27, 74-75. See also Rebecca Kippen, 'An Indispensable Duty of Government: Civil Registration in Nineteenth-Century Tasmania', *Tasmanian Historical Studies*, Vol.8, No.1, 2002, pp.42-58 and Stefan Petrow, 'Dr. Edward Swarbreck Hall: Tasmania's First Sanitarian', *Launceston Historical Society Occasional Papers*, Vol.4, 1999, pp.32-38. For classification systems, see Kippen, *Death in Tasmania*, p.42 (1868-86) and pp.43-44 (1887-1902).

¹¹³ Kippen, 'Death in Tasmania', pp.74-75.

Interstate deaths have been included in the calculations. The pattern roughly follows that established by Kippen, although her percentages are lower because she included men and children in her calculations.¹¹⁴ According to Kippen, in mid-nineteenth-century Tasmania as well as in Britain, about one-quarter of deaths attributed to drowning were recorded as ‘found drowned’, which was frequently an euphemism for suicide.¹¹⁵ Contemporary commentators suggested that Tasmania’s recorded rate of suicide was much lower than other colonies.¹¹⁶ Stigmatised causes of death – suicide, syphilis, alcoholism, and tuberculosis – were often masked or not identified.¹¹⁷

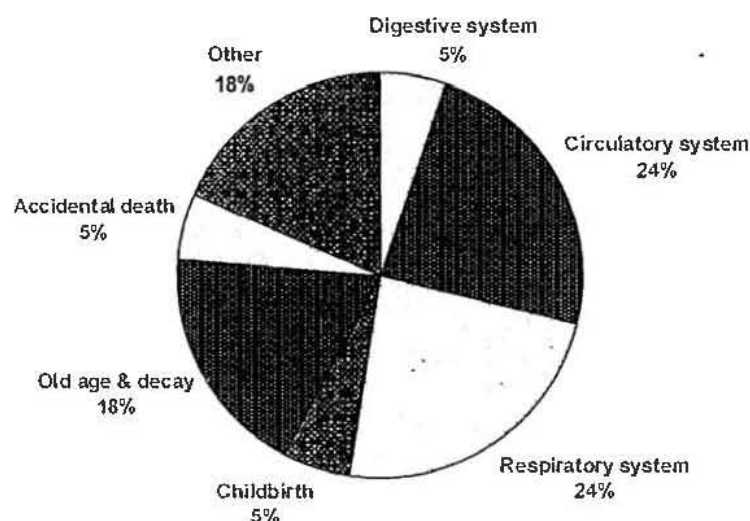


Figure 49: Cause of death of deliberate arsonists [n=38].

¹¹⁴ For women of childbearing age specifically, see Kippen, ‘Death in Tasmania’, pp.91, 173, 181 and Ch.9: ‘Maternal Mortality’.

¹¹⁵ Kippen, ‘Death in Tasmania’, p.80.

¹¹⁶ Kippen, ‘Death in Tasmania’, p.80.

¹¹⁷ Kippen, ‘Death in Tasmania’, p.80.

Diseases of the respiratory system

Phthisis (or 'phthisis pulmonalis', more commonly tuberculosis) was a common cause of death in colonial Australia.¹¹⁸ Kippen's study concluded that the largest single cause of death in Tasmania in the second half of the nineteenth-century was tuberculosis.¹¹⁹ In the category of respiratory diseases, Kippen included 'tuberculosis', 'phthisis', 'phthisis pulmonalis', 'consumption', 'pulmonary consumption' and 'scrofula'. However, according to Kippen, for much of the nineteenth century, tuberculosis was stigmatised because of a belief that it ran in families.¹²⁰ Consequently, registration data for tuberculosis may be inaccurate, with the disease being registered as bronchitis, pneumonia, and even typhoid, depending on the symptoms present in the concluding stages of the disease.¹²¹ At least eight of the deliberate arsonists died in Tasmania of lung-related diseases, including bronchitis and pneumonia. Eliza Morrison died of lung disease in 1855.¹²² Ann White, a thirty-six-year-old labourer's wife, died of 'consumption' in 1857 in Launceston.¹²³ Catherine Sweney Hollington, a forty-five-year-old innkeeper's wife, died of 'phthisis' in 1878 in Launceston.¹²⁴ Catherine Lynch, a fifty-five-year-old

¹¹⁸ For colonial rates of tuberculosis, see J.H.L. Cumpston, *Health and Disease in Australia. A History*, Canberra, 1989, pp. 276-291.

¹¹⁹ See Kippen, 'Death in Tasmania', Chapter 8: p.153. See also Kippen, *Death in Tasmania*, p.87: she calculated that deaths in this category constituted 27% of deaths in the 15-34 years age group over the period 1838-1899, and about 8% of total deaths.

¹²⁰ Kippen, *Death in Tasmania*, p.80.

¹²¹ A. Hardy, ' "Death is the cure of all diseases": using the General Register Office cause of death statistics for 1837-1920', *Social History of Medicine*, Vol.7, No.3, pp. 472-492.

¹²² AOT, RGD 35/5 1855 Hobart No.37: Eliza Morrison (6 July 1855).

¹²³ AOT, RGD 35/26 1857 Launceston No.433: Ann White (25 November 1857). This is most likely Ann Tuohy: see AOT, CON 41/12 Ann Tuohy *Arabian* 1847 No.286.

¹²⁴ AOT, RGD 35/47 1878 Launceston No.381: Catherine Sweney Hollington (5 December 1878).

labourer's wife, also died of 'phthisis' in Hobart in 1886.¹²⁵ Mary (Hennessy) 'Burch' died of 'phthisis pulmonalis' in 1867 at the General Hospital, Hobart.¹²⁶ Sixty-year-old Mary Murphy died of 'bronchitis' in 1884.¹²⁷ Alice Tobin, as 'Mary Thower', died of 'pneumonia' in Oatlands in December 1900.¹²⁸ In 1918, Alice Collins, died of natural causes as the result of chronic bronchitis, according to her inquest, and of heart failure, according to her death certificate.¹²⁹

Those dying interstate from respiratory disease included Celia (Kavanagh) Hurley, who died of 'phthisis' in February 1894 in Sandringham, Victoria.¹³⁰ Sixty-eight-year-old Mary (Madigan) Hutchins died of chronic bronchitis and debility in Fitzroy in 1900.¹³¹ In New South Wales, Margaret (Foley) Snell died of pneumonia;¹³² and Ann (Corry) Gallagher, died of chronic bronchitis and cardiac failure.¹³³

Diseases of the circulatory system

Disease of the circulatory system contributed to the deaths of at least nine, and probably twelve, deliberate arsonists. Ellen Watson, fifty-five-year-old wife of a labourer, died of a 'rupture of the right auricle of the heart' in 1879 in Oatlands

¹²⁵ AOT, RGD 35/10 1886 Hobart No.2990: Catherine Lynch (22 March 1886). See also AOT, CON 41/36 Catherine Duggan *Midlothian* 1853 No.841.

¹²⁶ AOT, RGD 35/7 1868 Hobart No.7093: Mary 'Burch' (19 December 1867).

¹²⁷ AOT, RGD 35/10 1884 Hobart No.1736: Mary Blay (17 July 1884). See also AOT, CON 41/22 Mary Murphy 2nd *Maria* (2) 1849 No.997.

¹²⁸ Tasmanian Death Certificate 1900 Oatlands No.0586: Mary Thower (December 1900). See also AOT, CON 41/35 Alice Tobin *Martin Luther* No.379.

¹²⁹ Tasmanian Death Certificate 1918 No.492: Alice Collins (12 November 1918).

¹³⁰ Victorian Death Certificate 1894 No.3784: Celia Hurley (February 1894).

¹³¹ Victorian Death Certificate 1900 No.5463: Mary Ann Herilds Hutchins (1 April 1900).

¹³² NSW Death Certificate 1898 No.008824: Margaret Snell (9 July 1898).

¹³³ NSW Death Certificate 1905 No.008779: Mary Ann Gallagher (21 August 1905).

district.¹³⁴ Mary (Prendgast) Perry, aged seventy-four, died of 'valve disease of [the] heart'.¹³⁵ Ellen (Ryan) Dwyer, aged fifty-five years, died of heart disease,¹³⁶ as did Margaret (Keogh) Wallace.¹³⁷ Elizabeth (Coghlan) Hilsley died of phlebitis.¹³⁸ As noted previously, it is sometimes difficult to be conclusive about deaths. Three more possible deaths for deliberate arsonists include Hannah Welsh, who died of heart disease in 1892 in Hamilton;¹³⁹ Eliza Green, who died of 'disease of the heart' in 1872 in Oatlands;¹⁴⁰ and Mary Eliza Askey, a fifty-three-year-old farmer's widow, who died of heart disease in 1893 at Richmond.¹⁴¹ These have been included in the calculation, as has Johanna (Connolly) Fulford, who died of 'heart failure' in 1907.¹⁴²

Two of the deliberate arsonists died of a combination of heart disease and rheumatism. Ellen (Wiseman) Cousins died in her seventies in 1900 of 'fatty degeneration of the heart and acute rheumatism'.¹⁴³ Catherine (Hayes) Hanley, a sixty-year-old widow, died in 1891 from 'chronic rheumatism' and 'heart disease'.¹⁴⁴

¹³⁴ AOT, RGD 35/48 1879 Oatlands No.486: Ellen Watson (6 September 1879).

¹³⁵ Tasmanian Death Certificate 1905 No.863: Mary Perry (12 December 1905).

¹³⁶ Victorian Death Certificate 1888 No.7986: Ellen Dwyer (24 April 1888).

¹³⁷ Victorian Death Certificate 1912 No.5676: Margaret Wallace (23 May 1912).

¹³⁸ AOT, RGD 35/7 1864 Hobart No.4754: Elizabeth Coghlan *ux* 'Ellerslie' (2 November 1864); AOT, HSD 145: Elizabeth Coghlan *ux* Ellerslie. Phlebitis is the inflammation of the wall of a vein.

¹³⁹ AOT, RGD 35/61 1892 Hamilton No.309: Hannah Welsh (22 July 1892). This is possibly Johanna Walsh, who married Charles White in Ouse in 1851: see AOT, CON 41/22 Johanna Walsh *Maria* (2) 1849 No.795; AOT, RGD 37/10 1851 Hamilton No.120: Walsh/White.

¹⁴⁰ AOT, RGD 35/41 1872 Oatlands No.372: Eliza Green (13 September 1872). This is possibly Eliza Guilfoyle who had children to William Green: see AOT, CON 41/24 Eliza Guilfoyle *Australasia* 1849 No.518. Eliza Green was the 40-year-old wife of a labourer; her death was registered by Thomas Merrick, friend, Oatlands. Thomas Merrick married another *Australasian* arsonist, Susan Chickley: AOT, RGD 37/22 1863 Oatlands No.607: 'Fareley'/Merrick.

¹⁴¹ AOT, RGD 35/62 1893 Richmond No.620: Mary Eliza Askey (19 August 1893). Her death was registered by Frederick Henry Wright, undertaker, of Richmond.

¹⁴² Tasmanian Death Certificate 1907 No.524: Hannah Fulford (13 July 1907).

¹⁴³ Tasmanian Death Certificate 1900 No.0225 Launceston: Ellen Mary Cousins (29 August 1900).

¹⁴⁴ AOT, RGD 35/10 1891 Hobart No.897: Catherine Hanley (20 December 1891).

Childbirth and related causes of death

Kippen's study concluded that, for women of childbearing age in nineteenth-century Tasmania, causes of death connected with maternity were the second most common after tuberculosis.¹⁴⁵ She added that nineteenth-century estimates of maternal mortality, based on registration data, were likely to underestimate actual death rates by a considerable margin.¹⁴⁶ At least two, and possibly four, deliberate arsonists died as a result of childbirth. Jane Allen died in 1852 in Launceston, only days after giving birth to a stillborn child at the Female Factory.¹⁴⁷ Norry (Burke) Gallagher died in childbirth in 1869, aged thirty-three.¹⁴⁸ Another possibility was Margaret (McNamara) James, who died at Castle Forbes Bay in 1856.¹⁴⁹ According to her death certificate, Margaret James was a twenty-two-year-old farmer's wife, who died of 'fever'.¹⁵⁰ As a child was born on the same day as his mother died, the cause of death may have been puerperal fever.¹⁵¹ Interestingly, Margaret James' death was not registered until several months after she died.¹⁵² Isolation and remoteness contributed to erratic record-keeping, and may explain why some deaths cannot be located. Julia (McCarthy) Oliver may also have died in childbirth, but this has not

¹⁴⁵ Kippen, 'Death in Tasmania', pp.91, 173, 181 and Chapter Nine: 'Maternal Mortality'.

¹⁴⁶ Kippen, 'Death in Tasmania', pp.173-193, for a discussion of the causes of maternal mortality in nineteenth-century Tasmania.

¹⁴⁷ AOT, CON 41/30 Jane Allen *Blackfriar* 1851 No.272; AOT, RGD 35/17 1852 Launceston No.650 'Allan' (7 August 1852).

¹⁴⁸ AOT, RGD 35/35 1869 Gordon No.175: Nora 'Gallagher' (15 June 1889).

¹⁴⁹ AOT, CON 41/35 Margaret McNamara *Martin Luther* 1852 No.1419; AOT, RGD 35/5 1856 Hobart No.1153: Margaret James (2 March 1856).

¹⁵⁰ AOT, RGD 35/5 1856 Hobart No.1153: Margaret James (2 March 1856).

¹⁵¹ Joyce Purtscher (comp.), *Father John Murphy's 'Saddlebag' Records. Catholic Baptism Huon District 1855-1864*, Mt. Stuart (Tas.), 1995. The child, John James, was born 2 March 1856.

¹⁵² AOT, RGD 35/5 1856 Hobart No.1153: Margaret James (2 March 1856). Rev. Murphy did not register the death until 24 December 1856. He also registered three other deaths on the same day, one of fever (June) and two of natural causes (July and October).

been proven: Julia Ann Oliver, a thirty-eight-year-old farmer's wife, died in childbirth in 1873 at Hamilton.¹⁵³

Old age and decay

At least five of the deliberate arsonists died from 'senilis' or old age. In Kippen's study, this category doubled over time, from 5 per cent of all deaths in 1838–49 to 12 per cent in 1890–99. Thirty-nine per cent of deaths at ages 65 and over were attributed to old age or its variant.¹⁵⁴ The actual age of those in this category varied: for example, deliberate arsonist Ann Bishop was only sixty when she died of 'senility' in 1884 in Launceston.¹⁵⁵ Mary (Sullivan) Thickens, in contrast, was eighty-three.¹⁵⁶ Others to die of old age included seventy-eight-year-old Margaret (Leary) Nichols,¹⁵⁷ and seventy-three-year-old Margaret (Bourke) Smith.¹⁵⁸ Elizabeth (Quinn) Goram died of 'senile decay' at the age of eighty.¹⁵⁹ Mary (Leyne) Conley, aged ninety-four, also died of 'senile decay'.¹⁶⁰ Alice Walker died of 'senility' and heart failure in 1920.¹⁶¹ Mary Nolan alias Butler died of 'natural decay' in September 1872.¹⁶²

¹⁵³ AOT, RGD 35/42 1873 Hamilton No.210: Julia Ann Oliver (8 March 1873).

¹⁵⁴ Kippen, 'Death in Tasmania', p.92.

¹⁵⁵ AOT, RGD 35/53 1884 Launceston No.435: Ann Bishop (14 December 1884). A sixty-year-old labourer's wife, she was possibly Ann Mahoney (b. c1823 or c1825), who arrived on the *Arabian* and later married William Bishop.

¹⁵⁶ Tasmanian Death Certificate 1906 Hobart No.0440: Mary Ann Thickens (19 August 1906).

¹⁵⁷ Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nichols (28 November 1901).

¹⁵⁸ Tasmanian Death Certificate 1900 Hobart No.0719: Margaret Smith (3 October 1900).

¹⁵⁹ Tasmanian Death Certificate 1910 No.62: Elizabeth Goram (10 September 1910).

¹⁶⁰ Tasmanian Death Certificate 1913 No.36: Mary Conley (15 March 1913).

¹⁶¹ Victorian Death Certificate 1920 No.13579 Alice Walker (3 December 1920).

¹⁶² AOT, RGD 35/41 1872 New Norfolk No.337: Mary Nowlan (19 September 1872).

Accidental death

At least two of the deliberate arsonists died accidentally. Johanna Cheshire died at Mangana in 1902 from an 'injury to the brain'. She was seventy-five and the widow of miner, Henry Cheshire. Her son, Charles, registered the death.¹⁶³

Margaret Polly, aged sixty-nine, was found drowned in the North Esk River in 1889.¹⁶⁴ An inquest into her death concluded simply that she drowned, and stated that there was no evidence to show how she came to be in the water.¹⁶⁵ The newspaper report of her inquest noted that her body had been found lying face down in the mud near the Inveresk Ferry. Four days earlier, intoxicated, she asked a witness the way to the Marine Hotel. A police constable gave evidence that he had met Margaret the same night; she had told him that she was going to the hotel and asked 'if she failed in getting a bed there whether she could get a bed at the police station; he told her she could; she was perfectly sober then'.¹⁶⁶ A medical examination of the body showed that she had been in the water three or four days, that there were no marks of violence except a slight abrasion on the cheek and eyelid, and death was caused by drowning.¹⁶⁷

¹⁶³ Tasmanian Death Certificate 1902 Fingal No.0218: 'Johanna Cheshire' (30 December 1902).

¹⁶⁴ AOT, RGD 35/58 1889 Launceston No.729: Margaret Polly (24 June 1889).

¹⁶⁵ AOT, SC 195/67 Inquest No.9595 (25 June 1889): Margaret Polly.

¹⁶⁶ AOT, SC 195/67 Inquest No.9595 (25 June 1889): Margaret Polly.

¹⁶⁷ *Examiner* 26 June 1889 p.2 col.4.

Kippen calculated that inquests were held on between 5 and 10 per cent of deaths each year in Tasmania.¹⁶⁸ Many were inconclusive as to cause of death, recording only generalities, and concentrating only on whether the death was the result of natural causes.¹⁶⁹ In the case of Alice Collins, who died at the age of ninety, the inquest, although determining that her death was from natural causes, was quite specific about the actual cause of death.¹⁷⁰ It determined that:

Alice Collins did die from natural causes to wit failure consequent on Chronic Bronchitis on the twelfth day of November 1918, and no blame is attached to any person.¹⁷¹

Diseases of the digestive system

Kippen concluded that about 6 per cent of total deaths were caused by diseases of the digestive system.¹⁷² Ellen (Fleming) Styles, who arrived in 1850, was only twenty-five when she died, four years after arriving in the colony. In that short time, she had married and had two children. A labourer's wife, she died of 'inflammation of the bowels'.¹⁷³

Other infectious diseases

This category included 'worms'.¹⁷⁴ Forty-year-old farmer's wife Bridget (McNamara) Gilroy died of 'worms' in 1870.¹⁷⁵

¹⁶⁸ Kippen, 'Death in Tasmania', p.76.

¹⁶⁹ Kippen, 'Death in Tasmania', p.76.

¹⁷⁰ AOT, NS 1052/55 Deloraine Tombstone Inscriptions No.21.

¹⁷¹ AOT, SC 195/85 Inquest No.14057 (14 November 1918): Alice Collins.

¹⁷² Kippen, 'Death in Tasmania', p.90.

¹⁷³ AOT, RGD 35/23 1854 Fingal No.10: Ellen Styles (18 May 1854). The chaplain at Cullenswood registered the death. Weeks before her death, her day-old daughter, Mary Ann Styles, died of 'convulsions': see AOT, RGD 35/23 1854 Fingal No.9: Mary Ann Styles (23 March 1854). Another child also died in infancy: see AOT RGD 35/22 1853 Fingal No.9: Edward Styles (18 June 1853). Aged 10 weeks, he died from 'influenza'.

¹⁷⁴ Kippen, 'Death in Tasmania', p.89.

Other causes of death

As Kippen suggested, not all causes of death can be neatly categorised. Designated 'unspecified natural causes' by Kippen, this group includes 'visitation of God', 'exhaustion' and 'haemorrhage'.¹⁷⁶ Ellen (Connor) Raymond, a thirty-three-year old carpenter's wife, died on 18 December 1864 of a 'haemorrhage'.¹⁷⁷ She was most likely living at Macquarie Plains at the time, possibly without access to medical assistance. At the time of her death, Ellen had been married sixteen years and the youngest of her five children was just over four years old.¹⁷⁸ Susan Chickley died of a 'cerebral haemorrhage' in 1908 in Oatlands.¹⁷⁹ Ellen (Murphy) Dickenson died of cancer of the stomach and exhaustion.¹⁸⁰

Interestingly, given the place of alcohol in colonial society and the number of drink-related offences, few causes of death appear to have been alcohol-related. Two of the deliberate arsonists died of liver disease. Mary (McCarthy) Rogers died of 'congestion of the liver' at the age of forty-six in 1878 in Bombala, NSW.¹⁸¹ Mary Ann (Nowlan) Patterson, aged forty-three, died of 'enlargement of the liver'; pneumonia was a secondary cause.¹⁸² Margaret Polly's drowning was also probably

¹⁷⁵ AOT, RGD 35/39 1870 Port Cygnet No.433: Bridget Gilroy (16 February 1870). Her husband, Alexander Gilroy of Gardiner's Bay, registered her death.

¹⁷⁶ Kippen, 'Death in Tasmania', p.92.

¹⁷⁷ AOT, RGD 35/33 1864 New Norfolk No.2398: Ellen Raymond (18 December 1864). The death was registered by James Purcell, friend, Macquarie Plains.

¹⁷⁸ AOT, RGD 35/33 1864 New Norfolk No.2398: Ellen Raymond (18 December 1864).

¹⁷⁹ AOT, RGD 27/1 1908 Oatlands No.329: Susan Merrick (6 June 1908).

¹⁸⁰ Victorian Death Certificate 1889 No.9210: Mary Helen Dickenson (21 June 1889).

¹⁸¹ NSW Death Certificate 1878 Bombala No.4679: Mary Rogers (10 April 1878).

¹⁸² NSW Death Certificate 1867 No.002254: Mary Ann Patterson (2 September 1867).

alcohol-related.¹⁸³ However, as Kippen noted, alcohol, like suicide, syphilis, and tuberculosis, falls into the category of stigmatised causes of death. In 1858, Hobart medical practitioner and nosologist, Edward Swarbreck Hall, noted that death from alcoholism was under-reported: 'Except from the Public Hospitals, this cause of death is scarcely ever registered. Private persons will not record a cause of death so disgraceful to their friends or relatives. Intemperance forms, directly or indirectly, a very large portion of adult deaths.'¹⁸⁴

In terms of cause of death, this study has found no significant divergence from the findings of Kippen's study of death in Tasmania.

Attitudes to death

While information can be obtained about date, place and cause of death, it is much less common to find information about the less tangible aspects, including ritual and attitudes towards death. Pat Jalland, in her study of the social and cultural aspects of Australian death, investigated the notion of the 'good Christian death' and the importance of spiritual preparation for death.¹⁸⁵ According to Jalland, the ideal, introduced to the Australian colonies by British and Irish migrants, was most robust among the middle and upper classes because it relied upon space, time, wealth, servants, and family support. It was influential also among the respectable working classes, at least until the 1870s. Jalland also noted significant differences between

¹⁸³ AOT, SC 195/67 Inquest No.9595 (25 June 1889): Margaret Polly.

¹⁸⁴ E.S. Hall, 'On the medical topography and vital statistics of the city of Hobart, Tasmania, and its southern subdistricts, for 1855', *Australian Medical Journal*, Vol.3, pp.85-105 cit Kippen, 'Death in Tasmania', p.80.

¹⁸⁵ Jalland, *Australian Ways of Death*, particularly Ch.3.

Protestant and Catholic ideas of what constituted a good Christian death, and suggested that a good Protestant death ‘required piety and life-long preparation, as well as fortitude in the face of physical suffering’. There should be time, and physical and mental capacity, for the completion of temporal and spiritual business, which included begging forgiveness for past sins in order to be deserving of salvation. Ideally, it occurred in ‘a good Christian home’, where the conscious and lucid dying person was surrounded by ‘a loving family’, could farewell each family member and be reassured by thoughts of a heavenly family reunion.¹⁸⁶ A good Catholic death also required ‘sacrificial living, with a regular routine of prayer and meditation to ensure the soul was prepared for death’ but relied more on the role of the priest and sacraments and clearly defined ritual of confession and absolution, followed by the last Eucharist and extreme unction: ‘The features of a good Catholic death included the confessions of sins and sincere contrition, earnest piety, upright character and resignation to God’s will, surrounded by the priest and a loving family’.¹⁸⁷

The validity of Jalland’s notion of the ‘good Christian death’ for the deliberate arsonists is difficult to test in the absence of evidence. There is simply no evidence that the deaths of the deliberate arsonists were characterized by the ritual of ‘a good Christian death’. Indeed, as Jalland stated, ‘The derivative Christian culture of death was at its best among wealthy and devout middle-class families. By contrast, it was

¹⁸⁶ Jalland, *Australian Ways of Death*, p.52.

¹⁸⁷ Jalland, *Australian Ways of Death*, p.66.

revealed at its most fragile and intolerant among the institutionalised destitute, who had to endure an absence of ritual and a silence about death, as well as indifference or ill-treatment at their death beds'.¹⁸⁸ This seems to be true for convict death generally, and is perhaps illustrated by an examination of the places of burial of the deliberate arsonists.

Burial

Few burial places for the deliberate arsonists have been located. Of the deliberate arsonists for whom deaths have been located, burial places have been established for approximately 37 per cent. This low number is partly related to the difficulties associated with the location and nature of burial records, particularly in smaller country areas. Records include church burial registers, cemetery plot records, undertakers' records and collections of headstone transcriptions. There is no centralized location for church burial registers. Even if a church burial record can be located, it does not necessarily indicate place of death. Ann (Daly) Cowley is a good example of this: according to her death certificate, Ann Cowley died at Ellendale in Hamilton district in 1906.¹⁸⁹ The church burial register simply noted her date of burial and that she was eighty-five and a resident of Ellendale.¹⁹⁰ Her actual burial place has not been located. For some disused rural cemeteries, plot records are not extant. Larger cemeteries such as Cornelian Bay in Hobart and Carr Villa in Launceston have more accessible cemetery plot records.

¹⁸⁸ Jalland, *Australian Ways of Death*, p.199.

¹⁸⁹ Tasmanian Death Certificate 1906 No.0336: Ann Cowley (4 May 1906).

¹⁹⁰ AOT, NS 2057/1/1 Burial Register St Peter's Church of England, Hamilton, 2 1906 p.72 No.570: Ann Cowley.

Many of the deliberate arsonists were buried in unmarked or pauper graves. Not all unmarked graves were paupers' plots. When Margaret (Leary) Nichols was buried in the Roman Catholic section of the Cornelian Bay cemetery, in an unmarked grave, she was buried in the same plot as her husband and other family members.¹⁹¹ Mary (Murphy) Blay, the wife of Hobart's executioner, Solomon Blay, was buried in the Roman Catholic Section of Cornelian Bay cemetery in an unmarked grave, while her husband, who died thirteen years later, was buried in a pauper plot in the same cemetery.¹⁹² Portions of cemeteries were routinely set aside for pauper burials. Ironically for the women whose lives had been subjected to the scrutiny of the police, for many there was a final police check to ascertain that there were no relatives or friends who could organize and pay for their funeral.¹⁹³

Burial, Religion and Church

Karskens referred to the limited role of formal religion in burial and dying: 'Ministers of religion formed part of the processions and read the service at the graveside, but had little to do with the care of the dying, newly-dead or bereaved. Funeral services were not held at churches; and the majority of burials were not in their yards or vaults, but at the public burial ground'.¹⁹⁴ As already noted, the place

¹⁹¹ Tasmanian Death Certificate 1901 Hobart No.0754: Margaret Nichols (28 November 1901).

¹⁹² SRCT, Record ID 4861, RC, Section B, No. 46: Mary Blay; SRCT, Record ID 11088, Pauper, Section B, No. 2: Solomon Blay. See also AOT, RGD 35/10 1884 Hobart No.1736: Mary Blay (17 July 1884).

¹⁹³ Jalland *Australian Ways of Death* p.215. See Karskens, 'Death was in his face', pp.32-33 for a description of the physical aspects of pauper burial. See also Robert Nicol, *At the End of the Road: Government, Society and the Disposal of Human Remains in the Nineteenth and Twentieth Centuries* Sydney, 1994, pp.6, 27-34.

¹⁹⁴ Karskens, 'Death was in his face', p.30. See also Griffin and Tobin, *In the Midst of Life*, p.91.

of religion in the lives of the deliberate arsonists is problematic, but it is interesting nevertheless to note the number of women who were buried in the religion which was recorded on their convict records on arrival. Ellen (Wiseman) Cousins was buried in the Westbury Catholic cemetery with her husband. Mary Prendgast had two Catholic husbands before marrying her third, John Perry, in St George's Church of England. Mary's third husband was buried in St James's Church of England Cemetery, Ranelagh, while Mary was buried in the Sacred Heart Roman Catholic Cemetery, Ranelagh, with her daughter.¹⁹⁵

In most instances, a party not related to the deceased woman registered the death. Occasionally family or friends registered the death, as in the case of Eliza Morrison.¹⁹⁶ This suggests a network of friendship existing among some convicts which extended to fulfilling civil responsibilities, such as registering deaths. While there is no tangible evidence, it is plausible that this network also extended to other death-related duties, such as the washing, laying out and dressing of the body for burial.¹⁹⁷ According to Karskens, professional undertakers were rarely used, and funerals were personal rather than commercial: 'the lower orders of Sydney appear to have maintained the affective and older, more traditional social relations', at least in the early period, spending their money on conviviality, on headstones carved by local

¹⁹⁵ TAMIOT, HU05/0700320: Ranelagh, St James Anglican; TAMIOT, HU06/0700101: Ranelagh, Sacred Heart Roman Catholic; *The Mercury* 14 December 1905 p.1 col. 1.

¹⁹⁶ AOT, RGD 35/5 1855 Hobart No.37: Eliza Morrison (6 July 1855).

¹⁹⁷ For historical changes in the preparation of the body, see Griffin and Tobin, *In the Midst of Life*, pp.22-26.

stonemasons and coffins made by carpenters.¹⁹⁸ She also stated that even later in the nineteenth century and early twentieth century when undertakers were routinely employed by working people, the earlier 'personal, intimate and communal customs' continued: undertakers 'provided the coffin and the hearse and they directed the funeral, but the corpse nevertheless remained at home, to be laid out by familiar hands, watched, viewed and waked.'¹⁹⁹

Remembering the dead: Headstones

Writing of the early colonial period, Karskens, argued that neglected burial grounds show 'a certain pragmatism in attitudes to death and the dead ... what was the point of tears and grief when there was work to do, children to feed and rear, households to run?'.²⁰⁰ In the early colonial period, early remarriage of widows and widowers, especially those with businesses and children, was common: 'Households were quickly reformed, life went on'.²⁰¹

While attitudes towards mourning changed in the Victorian period, and elaborate remembrances were erected, this was largely class-related: the poor rarely had resources for formal mourning and memorials. Amongst the convict and emancipated population, generally, the existence of a headstone indicates that the deceased belonged to a family or network that was able to afford a headstone. A headstone can be an indication of economic and social status, and respect. Those

¹⁹⁸ Karskens, 'Death was in his face', p.30.

¹⁹⁹ Karskens, 'Death was in his face', p.30.

²⁰⁰ Karskens, 'Death was in his face', p.35. See also Stefan Petrow, 'God's Neglected Acres: A History of Cemeteries in Tasmania 1803-1990', *Public History Review*, Vol.2, 1993, pp.144-167.

²⁰¹ Karskens, 'Death was in his face', p.35.

with headstones often also had newspaper funeral notices – again, a sign of economic position and social connections.

Few of the deliberate arsonists were buried with headstones. Only four headstones have been located in Tasmania; three were for widows with land. A fifth headstone has been located in Melbourne, and a sixth grave, that of Alice (Julian) Walker in Melbourne, has been recently marked with a plaque by her descendants.



Figure 50: Grave of Alice (Julian) Walker, Melbourne General Cemetery, 2003.



Figure 51: Grave of Alice (Julian) Walker, Melbourne General Cemetery, 2003.

Ellen Wiseman arrived on the *Earl Grey* in 1850, and died in 1900 in Launceston. She was buried the following day in Westbury Catholic Cemetery.²⁰² Her death notice was published in the *Examiner*:

Cousins: – On the 29th August at the residency of her son-in-law Mr. W. Benneworth, No. 1 Esk St, Invermay, Ellen Mary relict of the late Rheuben Cousins of the Black Sugar Loaf, Westbury, aged 70 years.

The funeral of the late Mrs. Ellen Mary Cousins will leave the Church of the Holy Trinity, Westbury. Friends will please accept this invitation.

Doolan, undertaker.²⁰³

²⁰² Tasmanian Death Certificate 1900 No.0225 Launceston: Ellen Mary Cousins (29 August 1900).



Figure 52: Grave of Ellen (Wiseman) and Reuben Cousins, RC Cemetery Westbury, 2003.

Ellen was buried with her husband, Reuben Cousins, who died in 1886 aged seventy.²⁰⁴ Their daughter, Mary Ann, who died in 1907, was buried with them.

Mary (Leyne) Conley, who died in 1913, was buried with her husband, William, at Alomah Cemetery, Bruny Island.

²⁰³ *Examiner* 30 August 1900 p.1 col.1.

²⁰⁴ TAMIOT, WE06/00102: Westbury.



Figure 53: Grave of Mary (Leyne) and William Conley, Alonnah, Bruny Island.



Figure 54: Headstone of Mary (Leyne) and William Conley, Alonnah, Bruny Island.
Photos courtesy of Kathy Duncombe, Bruny Island Historical Society.



Figure 55: Grave of Mary (Prendgast) Perry, Sacred Heart Cemetery, Ranelagh, 2004.

A headstone was also located for Mary Prendgast, one of a group of women tried in Tipperary and transported on the *Martin Luther* in 1852. In Van Diemen's Land, Mary married three times: to forty-year-old labourer Thomas Galligan *Ratcliffe* in 1853;²⁰⁵ to twenty-year-old sawyer Luke Welsh *Ratcliffe* in December 1853;²⁰⁶ and to thirty-six-year-old farmer, John Perry, in 1860.²⁰⁷ Mary was first sent to the Huon in 1853, and died there in 1905, fifteen months after the death of her third husband.²⁰⁸ Her death was noted in *The Mercury*:

²⁰⁵ RGD 37/12 1853 Hobart No. 718: Prendergast/Galligan (9 May 1853).

²⁰⁶ RGD 37/12 1853 Hobart No. 834: Prendergast/'Walsh' (12 December 1853).

²⁰⁷ RGD 37/19 1860 Hobart No. 159: 'Welch'/Perry (12 September 1850).

²⁰⁸ AOT, AD 960/27 p. 165 Will No. 6437 (1904): John Perry.

PERRY. — On December 12, 1905, at her son-in-law's residence, Hill View, Huonville, Mary, relict of the late John Perry, in the 76th year of her age. R.I.P. Funeral will leave the residence of Mr. Cannell, at 3 p.m. on Thursday, the 14th inst. for the Roman Catholic Cemetery, Ranelagh. Friends are respectfully invited to attend.²⁰⁹



Figure 56: Grave of Mary (Prendgast) Perry, Sacred Heart Cemetery, Ranelagh, 2004.

²⁰⁹ *The Mercury* 14 December 1905 p.1 col.1.



Figure 57: Headstone of Elizabeth (Quinn) Goram, Cornelian Bay Cemetery, Hobart, 2004.

Photo courtesy of Trudy Cowley.

Elizabeth (Quinn) Goram died in 1910 and was buried at Cornelian Bay cemetery in Hobart, with her husband, Martin; son, Michael, and grandson Michael Walter, 'son of Martin'.²¹⁰ Three generations are remembered on the headstone.



Figure S8: Grave of Mary (Madigan) Hutchins, Melbourne General Cemetery, 2003.

Mary Ann Herilds Hutchins died in 1900 in Fitzroy, Victoria and was buried in the Melbourne General Cemetery, with her son and granddaughter.²¹¹

²¹⁰ SRCT, Record ID 11746, RC, Section G, No.30: Martin Goram; SRCT, Record ID 16422, RC, Section G, No.30: Elizabeth Goram; SRCT, Record ID 26757, RC, Section G, No.30: Michael Goram; SRCT, Record ID 30234, RC, Section G, No.30: Michael Walter Goram. See also TFHS Inc. Hobart Branch, *Undertakers of Hobart Vol. II 1885-1907. Index to Alex Clark & Son Funeral records*, Hobart 2002, No.4/655

The headstone reads:

IN LOVING MEMORY OF
 HENRY HUTCHINS
 DIED 29 NOV 1892
 AGE 32 YEARS
 AND HIS MOTHER
 MARY A. H. HUTCHINS
 DIED 2 APRIL 1900
 AGED 69 YEARS
 AND HIS SISTER
 THERESA FORD
 DIED 18 OCT 1931
 AGED 69 YEARS
 ALSO HER DAUGHTER
 THERESA [GREEN]
 DIED 4 JUN 1920
 AGE 27 YEARS
 FORD.²¹²

²¹¹ Victorian Death Certificate 1900 No.5463: Mary Ann Herilds Hutchins (1 April 1900); Melbourne General Cemetery, CE, Section U, Grave No.420: Hutchins.

²¹² Melbourne General Cemetery, CE, Section U, Grave No.420: Hutchins. Theresa Green was the granddaughter of Mary Ann (Madigan) Hutchins: according to her death certificate, she died on 4 June 1920 in Fitzroy and was born in Melbourne, the daughter of Charles Ford and Theresa (Hutchins). She married in NSW and had no children. Victorian Death Certificate 1920 No.5785: Theresa Ferris Green.



Figure 59: Grave of Mary (Madigan) Hutchins, Melbourne General Cemetery, 2003

Alice Collins, who died aged ninety in 1918, was also buried with a headstone.²¹³

She was buried in the Roman Catholic cemetery at Deloraine with her husband, Dennis. Their headstone reads:

SACRED TO THE MEMORY OF
DENNIS COLLINS
WHO DEPARTED THIS LIFE
AUG 28 1886
AGED 73 YEARS R.I.P.
ALSO ALICE
WIFE OF THE ABOVE OF
GOLDEN VALLEY, WHO DEPARTED
THIS LIFE ON 13th NOV 1918
AGED 90 YEARS R.I.P.²¹⁴

²¹³ AOT, NS 1052/55 Deloraine Tombstone Inscriptions No.21.

²¹⁴ AOT, NS 1052/55 Deloraine Tombstone Inscriptions No.21.

The headstones marking the deaths of Ellen Cousins, Mary Perry, Elizabeth Goram and Mary Madigan provide a stark contrast to the deaths of many of the other deliberate arsonists, like Jane Allen, who lie in unmarked pauper graves.

Wills

Like headstones and published funeral notices, wills serve as an indication of wealth and status. Most people who owned land or other substantial assets had a will. Only one of the deliberate arsonists appears to have left a will, although others were the beneficiaries of wills made by their husbands. Elizabeth Quinn, who arrived on the *Blackfriar* in 1851, married Galway convict Martin Goram, a thirty-year-old labourer, in 1856.²¹⁵ They had at least four children in Hobart.²¹⁶ Martin's occupation was recorded on the birth registrations of his children as either labourer or carter. The family settled in the Ridgeway area. Martin later acquired land in Congress Street, South Hobart, where he was living when he died in 1899.²¹⁷ His estate was valued at less than £500, and was divided between one son and two daughters.²¹⁸ He left his residual personal estate to his wife, Elizabeth. Elizabeth (Quinn) Goram, aged eighty, died in 1910, and was buried at Cornelian Bay cemetery with her husband. Payees

²¹⁵ AOT, CON 41/30 Elizabeth Quinn *Blackfriar* 1851 No.40; AOT, RGD 37/15 1856 Hobart No.473: Quinn/Goram. Martin Goram's name was originally written 'Gorman' but this was crossed out.

²¹⁶ AOT, RGD 33/6 1857 Hobart No.565: Patrick 'Gorham' (10 June 1857); AOT, RGD 33/7 1858 Hobart No.1995: Nelly Goram (27 October 1858). Her father, Martin Goram, a labourer of Macquarie Street, registered the birth. RGD 33/9 1865 Hobart No.7403: Elizabeth Goram (21 December 1864); AOT, RGD 33/8 1863 Hobart No.6079: Michael Goram (21 April 1863).

²¹⁷ AOT, RGD 35/16 1899 No.801: Martin Goram (6 March 1899). This is indexed on the TPI (2003) as 'Marlin Govam'.

²¹⁸ AOT, AD 960/20 p.382 Will No.5407 (1899): Martin Goram. To his son, Martin Goram, he left his house and premises in Macquarie Street and £200. To his daughter, Maria, wife of Henry Curtis, a carter, he left 33 acres at Ridgeway. To his daughter, Alice, the wife of Peter Pressfield, a labourer of Sydney, he left £50. In a codicil to his will, he revoked his bequest to his son Martin, leaving the Macquarie Street property to his daughter, Maria, in addition to the Ridgeway land, and £200 to his son, Michael, of Hobart, a carter. He expressly declared that the land was to be left to Maria's children after her death.

for her funeral were her sons, Martin and Michael Goram.²¹⁹ Elizabeth's estate was valued at not more than £712. To her sons, Michael and Martin Goram, she left equal shares of her property in Congress Street and her personal estate.²²⁰ Elizabeth (Quinn) Goram was unusual among the deliberate arsonists because she acquired property in her own name and had significant assets at the time of her death.

Those deliberate arsonists who were beneficiaries or executors of their husband's will included Mary (Prendgast) Perry. John Perry died at his residence in 1904 at Southbridge, in the Huon.²²¹ In his will, he appointed his widow Mary sole executrix; she testified that the 'goods chattels rights credits and effects' at the time of his death did not exceed fifty pounds.²²² Mary (Keefe) Askey's husband, James, originally appointed his 'dear wife, Mary Eliza Askey' as sole executor of his will, but this was revoked in favour of son Samuel in a codicil.²²³ His will left all his personal estate to his wife and his real estate at Bridgewater to his sons. His estate was valued at 'not more than £560'.²²⁴ Ellen (Wiseman) Cousins was a beneficiary under the will of her husband, Reuben Cousins, who died in 1886. His will specified

²¹⁹ SRCT, Record ID 16422, RC, Section G No.30: Elizabeth 'Goran' (13 September 1910); TFHS Inc. Hobart Branch, *Undertakers of Hobart. Vol.I. Index to Pierce J. Keating Funeral Records 1895-1964*, Hobart, 2001, No.1/79.

²²⁰ AOT, AD 960/30 p.438 Will No.8193 (1910): Elizabeth Goram.

²²¹ AOT, AD 960/27 p.165 Will No.6437 (1904): John Perry).

²²² AOT, AD 960/27 p.165 Will No.6437 (1904): John Perry. Witnesses to the will were daughter, Lucy Cannell, Southbridge, and her husband, John Cannell, Southbridge.

²²³ AOT, RGD 35/13 1891 Hobart No.801: James Askey (14 November 1891). TAMIOT, GL01/39-0; GL01/40-0: Hestercombe. See also TFHS Inc. Hobart Branch, *Undertakers of Hobart Vol .II 1885-1907. Index to Alex Clark & Sons Funeral Records*, Hobart, 2002, p.6 No. 3/478.

²²⁴ AOT, AD 960/18 pp.486-487 Will No.4164 (1891): James Askey. Mary Eliza Askey died in 1893: AOT, RGD 35/62 1893 Richmond No.620: Mary Eliza Askey (19 August 1893).

that his wife, 'Helen Cousins', should 'receive the rents and profits of my real estate or to use and occupy the same or any part or parts thereof during her life.'²²⁵

Conclusion

A study of the deaths of the deliberate arsonists is not only an important part of their story – the metaphorical final chapter – but it also helps an understanding of the women's experiences. Many of the women had fought to escape from the dislocation and poverty of post-famine Ireland, cleverly using the legal system to secure transportation in the hope of a better life. No records survive to indicate whether the women thought that they had been successful. Their treatment in death reflected their treatment in life: largely ignored unless the colonial administration was somehow involved. Some of the women died before they had a chance to make a new start in Van Diemen's Land. Others could not shake off the legacy of their homeland, dying impoverished and alone in institutions reminiscent of the Irish workhouses they had sought to avoid. But these were a minority. Supported economically by the convict system while under sentence, many struggled to survive once freed. A few, however, established large and stable families, dying at home in relative comfort; their deaths were marked with newspaper funeral notices and they were remembered with headstones. The unmarked pauper graves of women like Jane Allen remain a potent symbol of the poverty which haunted the convict women and from which many had hoped to escape by committing arson and engineering transportation.

²²⁵ AOT, AD 960/16 p.159 Will No. 3266 (1886): Reuben Cousins.

Conclusion

‘The sun will shine upon us in another country as well as here’.¹

In 1844, the *Freeman's Journal* commented of the Irish poor that:

A thousand times better for them had they been transported, for then the government would be bound to maintain them; whereas, unprotected as they are – bereft of every sympathy, their privations and utter destitution, is indescribable.²

Poverty and deprivation were part of Irish life before the 1840s but were exacerbated by the Great Famine of 1846–1851 to such an extent that some sought to escape by courting transportation. Between 1841 and 1853, 248 women were transported from Ireland to Van Diemen’s Land for arson. At least seventy-nine of these women committed arson in order to be transported.

In the introduction to this thesis, I posed four fundamental questions relating those the women in Famine and post-Famine Ireland who committed arson in order to be transported. The first of these questions was why so many women committed arson in Ireland in the years following the Famine. The second question asked why the deliberate arsonists chose to commit arson and not some other crime. The third question asked why the women did not simply emigrate, if their aim was to seek a change in their circumstances. The final question related to the colonial experience of the transported arsonists: given that the women sought a change in their circumstances, it asked what their colonial experience reveals about how effective or successful they were.

¹ *Clare Journal* 12 July 1849 p.3 col.1: Mortimer Collins on being sentenced to transportation.

² *Freeman's Journal* 24 July 1844 p.2 col.5.

It has been demonstrated, statistically, that there was a dramatic increase in the number of women being transported in Ireland in the late 1840s. In a general sense, women committed arson because of the poverty and dislocation caused by the Famine. In a more immediate and personal sense, they committed arson to obtain food and shelter, and in the hope of improved living conditions, through transportation. Significantly, they chose to commit arson in order to be transported. Transportation, then, was not simply a punishment. Impoverished, marginalised women in Famine and post-Famine Ireland were not simply passive ciphers but actively sought change. They were convicts by choice.

The second question of this thesis asked why the deliberate arsonists chose to commit arson and not some other crime. Arson was the most effective crime for those who wished to be transported. It was visible, immediate, and it was easy to be caught if that was the purpose. It was serious enough to warrant transportation. Comments made by Irish judges recognised that arson was the crime favoured by those wanting to secure transportation. By the early 1850s, it was entrenched as a means of engineering transportation among women, a fact acknowledged by the Irish courts and frequently commented upon in Irish newspapers. There is no evidence that the deliberate arsonists were social or political protesters: for these women, arson was not an overt political statement.

The third question of this thesis asked why the deliberate arsonists chose transportation rather than emigration. An analysis of the requirements of

contemporary emigration schemes indicated that the deliberate arsonists rarely met the selection criteria for emigration. As well, some of the deliberate arsonists appear to have been from the group too poor to emigrate. Emigration, for the deliberate arsonists, was rarely an option. Transportation and emigration were both a means to an end. The deliberate arsonists were shrewd and creative pauper emigrants.

The deliberate arsonists challenge traditional notions of convict historiography and raise questions about the fundamental nature of criminality and transportation. This thesis has demonstrated that the deliberate arsonists, as active agents, were using transportation as a form of emigration.

Part Two of this thesis explored the colonial experience of the women, focusing on their lives once emancipated, when they were 'on their own hands'. It was not possible to trace all of the deliberate arsonists. For those whose lives could be reconstructed, the breadth of their experience and their use of the opportunities presented by transportation were explored in-depth. In reconstructing the lives of the deliberate arsonists, this study has built on E.P. Thompson's conviction that labouring people were important historiographically and were active participants in shaping their lives.³ Reconstruction of the experiences of the deliberate arsonists – of the lives of ordinary individuals – contributes to an understanding of fundamental social structures and processes, particularly in the context of penal Van Diemen's Land.

³ E.P. Thompson, *The Making of the English Working Class*, London, 1963.

The colonial experience of the deliberate arsonists has been divided into five sections: marriage; children; work; survival; and death.

Marriage

The majority of the deliberate arsonists were single when they arrived in Van Diemen's Land. In this respect, they were no different from convict women generally. Marriage, the main livelihood for women, was an important life decision for the deliberate arsonists. It is likely that, when they were transported, they expected to marry. It is impossible to say how the deliberate arsonists perceived marriage, but it is plausible that they viewed marriage as providing some form of economic protection and security. It was a strategy for survival.

A majority of the deliberate arsonists sought permission to marry. Some were particularly persistent, not at all rebuffed by an initial refusal. They worked within the established government process to achieve what they wanted. While not all applications led to marriage, the majority of the deliberate arsonists married in the colony, most while still under sentence. The choice of partner was limited, not only by demographic availability, but also by the rules and regulations of the Convict Department. Most women married convicts, under sentence or freed by servitude or pardon. The deliberate arsonists do not seem to have particularly sought out Irish or Roman Catholic husbands. Those who were widowed in the colony remarried or formed new partnerships.

Not all marriages lasted. Desertion and death were the main reasons for marriages ending. But there were some long-term, apparently stable, marriages, lasting forty or more years, ending with the wife and husband buried together. Marriage, whatever the outcome and whatever the form, was an important aspect of the women's lives.

Families

Most of the deliberate arsonists had families, although for some of the women there were no records of the birth of children. At least thirteen deliberate arsonists gave birth to children illegitimately, while they were serving their sentence. Over three-quarters of these illegitimate children born in institutions did not survive infancy. Some of the mothers 'delivered of an illegitimate child' do not appear to have had more children when they married. Perhaps difficulties with fertility and child-bearing, related to the famine and malnutrition, were responsible, but it is difficult to know.

With female ages at marriage low and most women marrying, many women spent the much of their adult lives pregnant, giving birth and/or caring for young children. Some of the women established large families, whose descendants acknowledge their contribution and conscientiously research their lives. Others had children admitted to the Orphan School, and some lost contact with them.

Working and living

The majority of the women belonged to the unskilled working class in Ireland and remained in this occupational grouping after being transported. The women, therefore, were acutely vulnerable to those circumstances which increased the

likelihood of destitution: unemployment or the loss of a breadwinner through death, illness, or desertion. The deliberate arsonists successfully utilised a number of strategies in order to survive. These included marriage, paid work, State and charitable assistance and to a much lesser extent, crime. Non-familial networks provided support.

Marriage was one survival strategy but it did not guarantee economic security. Many of the women had come from families in Ireland which did not have a male breadwinner, and were used to fending for themselves. In Tasmania, this was counterbalanced by a dependence on the government for assistance. While under sentence, the women were fed, clothed and cared for by the State, a reflection of the value placed on them as human capital. Once freed, they were 'on their own hands', forced to provide for themselves. Work opportunities were limited, and available jobs were often lowly-paid and lacking security. Consequently, many of the women remained marginalised and impoverished. Poverty was exacerbated by the loss of the family breadwinner. The families of deserted wives, widows and single mothers were often indigent, as were those where the breadwinner was sick, unemployed or incapacitated. Families with a number of children, or young children, also often struggled to survive economically. Older children were often required to look after younger children, so that their mother could go into service. The apprenticing of children from the Orphan School may have deprived families of a financial contribution. But few of the deliberate arsonists turned to alternative methods of colonial survival: to crime, prostitution, or long-term institutionalized relief.

Surviving

Survival in colonial Tasmania was often difficult. For those in casual labour, the aged and unemployed, and those without family or a substitute network of support, destitution was a constant threat. Assistance from the government and charitable societies was given only to those judged to be deserving and temperate. For many of the women, a pauper's burial was the best for which they could hope. Poverty was a cycle from which it was difficult to escape. Yet the arsonists were survivors, persistently adapting to and exploiting the situations in which they found themselves. Like Luddy and Murphy's Irish women, they had to be 'active and manipulative in order to survive'.⁴

Death and Burial

A study of the deaths of the deliberate arsonists helps understand the colonial experience of the deliberate arsonists – where and how they died, where they were buried, how they were remembered. Deaths for just over one half of the deliberate arsonists have been located. Many lived to old age. Several of the women died shortly after arrival, at a relatively young age, before they had a chance to begin a new life in Van Diemen's Land. Only two died in institutions, one in the Asylum for the Insane and the other in the New Town Charitable Institution. A minority of the women established large and ostensibly stable families, some dying at home in relative comfort and remembered by their families with headstones.

⁴ Maria Luddy and Cliona Murphy, ' "Cherchez la femme": The Elusive Woman In Irish History' in Maria Luddy and Cliona Murphy (ed.), *Women Surviving. Studies in Irish Women's History in the 19th & 20th centuries*, Dublin, 1989, pp.1-14.

More than passive economic victims, the arsonists were marginalised women actively seeking to change their circumstances. Initially, this was from the dislocation and chaos of Famine and post-Famine Ireland but the process continued in Van Diemen's Land. A major focus of this thesis has been the colonial experience of the arsonists, tracing what happened to them and examining whether there was evidence that they tried to improve their position in the colony, especially when they were free. This thesis has shown that, by using a number of survival strategies, the women's attempts to seek control over their lives continued.

Success

For convicts and emancipists, impediments to success included religion, illiteracy, lack of skills, social dislocation and bigotry.⁵ Socially, the stigma of convictism was also a barrier, confining emancipists to the 'non-respectable classes'.⁶ By the time many of the arsonists were 'on their own hands', the anti-transportation movement was most vituperative and it swayed the social climate in which the arsonists lived.⁷ At least nine of the deliberate arsonists – 13 per cent – had moved interstate by the mid-1870s; many more of their children left Tasmania.

⁵ David Fitzpatrick, 'Irish Immigration to Australia', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.58. See also John Williams, 'Irish Convicts in Tasmania', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.29.

⁶ David Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales*, Melbourne, 1992, p.53.

⁷ Michael Roe, 'The Ubiquity of Irishness in Tasmanian History: One Generalist's Experience', *Bulletin for Tasmanian Historical Studies*, Vol.2, No.3, 1989, p.85. For the anti-transportationist position, see A.G.L. Shaw (ed.), John West, *The History of Tasmania with copious information respecting the colonies of New South Wales, Victoria, South Australia &c &c*, first published 1852, Sydney, 1981. See also Henry Reynolds, 'That Hated Stain': The Aftermath of Transportation in Tasmania, *Historical Studies: Australia and New Zealand*, Vol. 4, No. 53, October, 1969; P.A. Howell, 'The Irish Exile', *THRAPP*, Vol. 26, 1979, pp.115-131; and R.P. Davis, 'The Liberal Catholicism of Patrick O'Donohue', *Journal of Religious History*, Vol.5, 1969, pp.314-330.

Evidence exists that information on some interstate civil registration records, particularly death certificates, disregarded a Van Diemen's Land background, either through ignorance or design.⁸ Others, however, showed no attempt to hide the past.⁹ Interstate moves may have been motivated by a desire to escape a convict past, as Williams suggests.¹⁰ But they also may have been a continuation of the search for better conditions which prompted the deliberate arsonists to offend in the first place. Nevertheless, few descendants of the deliberate arsonists knew of their convict ancestry before embarking on family history research: only one provided evidence that the family knew of the crime which the ancestor had committed, and this was a slightly modified version.¹¹ Convict heritage was either ignored or regarded with shame until well into the twentieth century.¹² Ironically, for the deliberate arsonists, colonial success often meant denial or selective remembering of the past. Yet many remembered families left behind in the naming of their children; others remembered their convict parents similarly: the children of Margaret Stafford and Franklin Polley, for example, incorporated both surnames as given names.¹³ Children provided details of their Irish grandparents on their parents' death certificates: information that could only have come from their parents. Families were important.

⁸ Victorian Death Certificate 1888 No.7986: Ellen Dwyer (24 April 1888); Victorian Death Certificate 1920 No.13579: Alice Walker (5 December 1920).

⁹ NSW Death Certificate 1898 No.008824: Margaret Snell (9 July 1898).

¹⁰ Williams, 'Irish Convicts in Tasmania', p.29.

¹¹ Dianne Egbert, *personal communication*, 4 May 2004.

¹² John Williams, 'Irish Female Convicts and Tasmania', *Labour History*, No.44, 1983, p.17. See also Alison Alexander, 'The Legacy of the Convict System', *Tasmanian Historical Studies*, Vol.6, No.1, pp.48-59.

¹³ AOT, RGD 33/71 1891 Fingal No.1590: Christopher Stafford O'Shea (30 May 1891); AOT, RGD 33/77 1894 Fingal No.785: Henry Edward Polley O'Shea (9 May 1894).

That the deliberate arsonists remembered their families in the naming of their children indicates the importance of family to the women. The deliberate arsonists may have been convicts by choice but, as the Molesworth Committee acknowledged, exile caused the greatest pain for the convicts.¹⁴ The impact of psychological factors – ‘feelings, emotions, dignity, social, cultural and family ties, love of place and so on’¹⁵ – tempered success. The psychological displacement that is part of the migrant experience, described by Nicholas and Shergold, applied equally to convicts:

Uprooting from one’s homeland is often a traumatic experience. And the pain suffered can be expensive to the individual and to the host society. Leaving the stability of one’s own parish or town, cutting one’s ties with a supportive network of family and friends, imposes non-pecuniary ‘psychic costs’ on an individual which offset to some extent the economic benefits to be derived from migration.¹⁶

Many of the deliberate arsonists – at least 67 per cent – offended in pairs or groups. As well, many had moved before being transported: 35 per cent were tried outside their native place.¹⁷ This may have facilitated their relocation, ‘easing the transition into work and life away from established family and community relationships’.¹⁸ In the colony, the formation of non-familial networks was not only a survival strategy but may have reduced the pain of separation.

Some of the deliberate arsonists maintained their Irish heritage. By 1882, nearly three-quarters of Tasmania’s population had been born in Australia and only 6 per

¹⁴ David Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales*, Melbourne, 1992, pp.38-39.

¹⁵ Neal, *The Rule of Law*, pp.38-39.

¹⁶ Stephen Nicholas and Peter R. Shergold, ‘Convicts as Migrants’ in Stephen Nicholas (ed.), *Convict Workers: Reinterpreting Australia’s Past*, Melbourne, 1988, p.53.

¹⁷ Nicholas and Shergold, ‘Convicts as Migrants’, pp.53-54, 58.

¹⁸ Nicholas and Shergold, ‘Convicts as Migrants’, pp.53-54, 58.

cent claimed Irish birth.¹⁹ The deliberate arsonists effectively blended into the colonial population: like Irish migrants as a whole, as Fitzpatrick suggested, they were 'merely a soluble ingredient in some bland white sauce which became the Australian people'.²⁰ For some, assimilation was a measure of success. Some deliberate arsonists, however, settled in rural towns recognized as pockets of Irishness, or with strong Catholic communities, including Westbury, Deloraine, the Huon and the Fingal Valley. The deliberate arsonists, and Irish convicts generally, were marked not only by their convict experience but by their Irishness and their religion, and it is not surprising that some settled in like communities, which as Roe suggested, provided some measure of protection.²¹ Apart from, religion was also significant in a social context.²² Williams asserted that the religion of the Irish convicts 'set them apart'; it was an important factor in a Protestant-dominated colony.²³

Little information about the place of religion in the personal lives of the arsonists or how they practiced religion has been revealed. Baptism, marriage and burial records reveal that some of the women changed their religion, perhaps due to expediency. Others were steadfast. But religion was important in a social context, and as a form of social control.

¹⁹ *Statistics of Tasmania* 1882.

²⁰ David Fitzpatrick, 'Irish Immigration to Australia 1840-1914', *Bulletin of the Centre for Tasmanian Historical Studies*, Vol. 2, No. 3, 1989, pp. 57-58.

²¹ Roe, 'The Ubiquity of Irishness', p.84. See also Michael Roe, *Quest for Authority*, Melbourne, 1965, p.119.

²² For religion as a form of social control, see Hilary Rumley, 'A Missionary's Moral Burden: A Perspective on the Problems of Women in Fremantle in the Early 1840s', *The Push from the Bush: A Bulletin of Early Social History*, No. 16, October 1983, pp.33-38.

²³ Williams, 'Irish Convicts in Tasmania', p.22.

Measuring Success

Measuring success is fraught with difficulties. Success, as Kent and Townsend acknowledged in their study of the convicts of the *Eleanor*,²⁴ is relative and highly subjective. If success is defined as the accomplishment of an aim, then, at the simplest level, the deliberate arsonists were successful: if their aim was to be transported, then they achieved this. But underlying their statements about deliberately committing arson in order to be transported, there lies a strong implication that their aim was not simply to be transported, but was to seek an improvement in their circumstances. For some, this was an immediate relief from hunger and homelessness; for others, like Catherine Duggan and Margaret Bourke, who stated that they committed arson in order to better their condition,²⁵ it was less tangible. Whether they were successful – or believed that they were successful – remains problematic.

Catherine Duggan, a twenty-year-old Kilkenny country servant tried in Wexford, was in Van Diemen's Land only a few months before she married an Irish convict from Cork. When she arrived, she was young, single, illiterate, and Roman Catholic. She brought very little with her, except the tattoos on her left arm and hand.²⁶ Catherine received no colonial offences and was granted her ticket-of-leave in 1854. There is no evidence that she maintained contact with the two

²⁴ David Kent and Norma Townsend, *Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London: Merlin and Annandale, NSW, 2002, p.249.

²⁵ AOT, CON 41/36, CON 15/8 and CON 19/11 Margaret Bourke *Midlothian* 1853 No. 1213; Catherine Duggan *Midlothian* 1853 No. 841.

²⁶ AOT, CON 41/36 and 15/8 Catherine Duggan *Midlothian* 1853 No. 841. Her tattoos read: 'Blue circle fourth finger and blue mark middle finger of left hand, blue mark finger and thumb of left hand, blue marks on left arm DM [?] DW [?]'.

women with whom she was tried.²⁷ Catherine married and had at least two children.²⁸ After the birth of her daughter in 1855, the only definite record of her was the approval of her conditional pardon in 1856.²⁹ From the limited information available, it is therefore impossible to even estimate whether she achieved her goal of bettering her condition in the long-term. Perhaps this is an indication of her success: she blended into the colony's population.

Like Catherine Duggan, Margaret Bourke also married soon after arrival and had an unblemished colonial record. Originally from County Limerick but tried in Tipperary, Margaret Bourke was a twenty-eight year-old illiterate Roman Catholic country servant. She received her ticket-of-leave in 1854, the same day as Catherine Duggan. Margaret did not move far from the area where she was originally assigned: Margaret and her husband, James Smith, married in Green Ponds (Kempton) and settled in the Bagdad-Kempton district, where they raised a family of five children.³⁰ She lived to more than seventy-five, living out her last days with her daughter. In her own way, Margaret was quietly successful. She fulfilled the need of colonial authorities seeking human capital: when she arrived, she was young enough to provide useful labour. By marrying a year after arrival, she contributed to the balancing of the gender disparity. Her seven children were

²⁷ AOT, CON 41/36 Mary Fielding *Midlothian* 1853 No. 531; AOT, CON 41/36 Mary Keefe *Midlothian* 1853 No. 492.

²⁸ AOT, RGD 37/12 1853 New Norfolk No.1331: Duggan/Lynch; AOT, RGD 33/32 1854 New Norfolk No. 996: John Lynch; AOT, RGD 33/33 1855 New Norfolk No. 1217: Catherine Lynch.

²⁹ There are children born to Patrick Lynch and Catherine Minno (Manook, Minoak, Manoak, and Monague) at New Norfolk between 1858 but this may be a completely separate couple.

³⁰ AOT, CON 41/36, CON 15/8 and CON 19/11 Margaret Bourke *Midlothian* 1853 No. 1213; AOT, CON 52/7 p.451: Burke/Smith; AOT, RGD 37/13 1854 Brighton No. 52: Bourke/Smith. Permission to marry James Smith was granted in May 1854; they married the following month at Brighton. See also Pearl Griggs, *personal communication*, 15 July 2004. Mrs. Griggs is a great-granddaughter of Margaret (Bourke) Smith.

a source of colonial labour. Conditions in the famine-ravaged Ireland that Margaret left behind were desperate. Conditions in rural Tasmania in the second half of the nineteenth-century, for the rural working-class, were often hand-to-mouth; the standard of living was frugal.³¹ But she had a husband and family, a house and, as far as can be judged, stability. It cannot be known what her life would have been liked if she had remained in Ireland. But it is likely that it would have been characterised by poverty, and, given contemporary Irish demographic patterns, she may not have survived to old age, married or had a family. Above all, Margaret was free from the threat of starvation. For Kent and Townsend, the measure of success for the Essex protesters on the *Eleanor* was simple: freedom from hunger which 'consistently haunted' the door.³² For the deliberate arsonists, this was also the case.

A strand of convict historiography focuses on the 'successful' emancipist: one who achieved some form of social, economic or political success, someone who achieved wealth or status, or was prosperous. It could be argued that none of the deliberate arsonists achieved the status of earlier emancipists like Mary Reiby or Maria Lord. But many, in their own way, became respected citizens in their own communities. Thirty-two – approximately 40 per cent – had no colonial offences recorded against them, and many had only minor colonial convictions. Even some of those who appeared in the Supreme Court on colonial charges went on to lead ostensibly 'respectable' lives, and so may be recognised as successful: Alice

³¹ Shayne Breen, 'Outdoor Poor Relief in Launceston 1860-80', *THRAPP*, Vol.38, No. 1, 1991, pp.19-50. See also Shayne Breen, 'Land and Power in the District of Deloraine, 1825-75', *THRAPP*, Vol. 37, No. 1, 1990, pp. 22-33; Shayne Breen, *Contested Places. Tasmania's Northern Districts from ancient times to 1900*, Hobart, 2001.

³² Kent and Townsend, *Convicts of the Eleanor*, p.250.

Julian, for example, appeared in the Supreme Court in Hobart in 1867 on a charge of having feloniously uttered a counterfeit coin of the realm, with intent to defraud. Having served her sentence, she went on to be a well-respected midwife and much-loved and long-remembered grandmother in Victoria.³³ As Damousi suggests, the focus on individual material success adds little to an understanding of the debate.³⁴ It obscures the complexity of the colonial experience.

The deliberate arsonists were an excellent human capital resource. They were young and single with adaptable and useful skills. The desire of colonial authorities for labour and the need for young women of marriageable age to redress the gender imbalance fitted neatly with the aims of the deliberate arsonists. Yet the aspirations of the women and the officials were different: they measured success differently.

For some of the deliberate arsonists, simply surviving was an achievement. For others, the fact that they 'disappeared' from the records of a penal society may also have been a form of success: they could no longer be identified as convicts or emancipated convicts, named by ship and convict number. Thirty-three of the women – 43 per cent – merged into the colonial population and their deaths cannot be traced. It is likely that some like Catherine Mannon died an ignominious and anonymous death: the last record of Catherine was in 1896 when, after more than thirty years of drink-related offences, she was arrested for

³³ AOT, CON 41/35 and CON 15/7 Alice Julian *Martin Luther* No. 443; Gordon Roberts, *personal communication*, 15 July 1998

³⁴ Joy Damousi, ' "Depravity and Disorder": The Sexuality of Convict Women', *Labour History*, No. 68 May 1995, p.30.

being idle and disorderly one morning in New Norfolk. Probably homeless, the only property she had was a pipe and matches.³⁵ Other deliberate arsonists vanished from the records in Van Diemen's Land only to turn up with new families interstate: lifer Mary Nowlan, married with children and pregnant, absconded in Hobart in February 1856; in May 1856, she reappeared in Sydney, where had she joined her husband and continued to add to their family.³⁶ It is possible that this experience was shared by some of the other deliberate arsonists who cannot be located. They blended into the colonial working class. Their lives were ordinary and anonymous. Some deliberately covered their tracks, hiding their convict past.

This thesis adds to the body of knowledge about the female convict experience, generally, and the deliberate arsonists, specifically. As far as can be determined, this is the first time that a comprehensive study of a group of convict women, grouped by crime, has been carried out. It is also the first time that a study has looked specifically and extensively at 'courting transportation', at transportation as emigration, and, in this respect, it has only touched the tip of an iceberg. The phenomenon of deliberately courting transportation was not limited to the female arsonists or Famine and post-Famine Ireland, although it was a period when it was undeniably most effectively and publicly used. Transportation was not simply a punishment, and impoverished, marginalised women in Famine and post-Famine Ireland actively sought change. This thesis is also the first time that the female convict experience post-sentence has been looked at in detail in a Tasmanian

³⁵ AOT, POL 510/1/2 New Norfolk 12 August 1896: Catherine Leathley.

³⁶ AOT, CON 41/26 Mary Nowlan *Earl Grey* 1849 No.199. NSW Birth Certificate 1856 No.468: Mary Jane Patterson (18 May 1856); David Woodward, *personal communication*, April 2004.

context, with a focus on individuals, and utilising family history and family reconstruction techniques.

As noted previously, Catherine Duggan and Margaret Bourke, who arrived on the *Midlothian*, the last ship to bring Irish convict women to Van Diemen's Land, stated quite explicitly that they committed arson in order to better their condition.³⁷ Underlying their statements is a belief that, by being transported, the women could effect some improvement in their life, whether it be economically or familial, immediate or long-term. This was true for all of those who deliberate committed arson in order to be transported. The women sought a means to escape the hunger, dislocation, poverty and hardship created in the aftermath of Great Famine in Ireland. For them, transportation was a form of emigration. Many were possibly too poor to emigrate. Others did not fulfil selection criteria, even for pauper emigration schemes. Transportation was not simply a punishment.

Thorough examination of the colonial experience of the deliberate arsonists provides a means to assess the efficacy of the strategies of the deliberate arsonists. This is difficult to quantify or even to assess in general terms, because it relies on intangible or subjective factors such as success and improvement. The lives of the women if they had remained in Ireland remains problematic. The lives of the women in convict Tasmania or colonial Australia continue to be largely hidden in the records. This is particularly true for those who did not come into contact with government authorities or charitable institutions. But perhaps that in itself may be

³⁷ AOT, CON 41/36, CON 15/8 and CON 19/11 Margaret Bourke *Midlothian* 1853 No. 1213; Catherine Duggan *Midlothian* 1853 No. 841.

taken as a measure of success. The lives of the women were characterized by change and complexity. Clearly, they did not conform to the image of the 'degenerate criminal professional'. Nor did they conform to the image of the passive famine victim. Despite economic, political and social constraints imposed on them, in Ireland and Van Diemen's Land, the deliberate arsonists exercised agency over their lives by using a number of survival strategies. The individual voice of the women has been lost, but it is clear from the evidence that they actively sought a change in their circumstances, using a shrewd, well-tried and effective method: arson.

Appendix One: Irish Female Arsonists

Key to Appendix One

TBT	= committed arson in order to be transported
PTBT	= committed arson probably to be transported
MTBT	= marginal deliberate arsonists
pn	= proper name

Appendix One: Irish Female Arsonists

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
AHERN Margaret	<i>Blackfriar</i>	1851	1850	Cork	
ALLEN Jane	<i>Blackfriar</i>	1851	1850	Wexford	TBT (newspaper evidence)
ARMSTRONG Jane	<i>Duke of Cornwall</i>	1850	1849	Kildare	
BARRINGTON Catherine	<i>Martin Luther</i>	1852	1851	Carlow	
BASLEY Margaret	<i>Duke of Cornwall</i>	1850	1850	Kildare	MTBT. Tried with Eliza Jones. A 'rambling woman'
BEAMES Catharine	<i>John William Dare</i>	1852	1851	Wexford	MTBT. To get into gaol (newspaper). Tried with Catharine Byrne
BEHAN Margaret	<i>Earl Grey</i>	1850	1849	Kildare	TBT To follow John Tracey who had been transported about 12 month previously
BERRY Rosanna	<i>Martin Luther</i>	1852	1851	Waterford	TBT
BLAKE Ann	<i>Blackfriar</i>	1851	1850	Wexford	TBT (newspaper evidence) Tried with Anne Murphy 2 nd
BOURKE Margaret	<i>Midlothian</i>	1853	1852	Tipperary	TBT 'to better my condition'
BOURKE Norry	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Circumstantial. Tried with Griffin, Hennessy, Prendgast, Tobin
BRADY Mary	<i>Duke of Cornwall</i>	1850	1849	Co. Dublin	
BRIAN Honor	<i>Blackfriar</i>	1851	1850	Wicklow	
BRIEN Ellen	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Circumstantial (newspaper). Tried with Ellen Murphy & Ann Sullivan
BRIEN Mary	<i>John William Dare</i>	1852	1851	Tipperary	MTBT (newspaper). Vagrant. To get into gaol
BROWN Mary	<i>John William Dare</i>	1852	1851	Kildare	Tried with Emily Johnson
BROWNE Mary 2 nd	<i>Earl Grey</i>	1850	1848	Kildare	
BRYAN Bridget	<i>Blackfriar</i>	1851	1850	Waterford	MTBT. Tried with Bridget Keating. To get into gaol
BRYAN Margaret	<i>Martin Luther</i>	1852	1851	Waterford	
BUCHANAN Rose	<i>John William Dare</i>	1852	1851	Cavan	NAI, CRF 1851 B 34 Petition
BURKE Sarah	<i>Australasia</i>	1849	1849	Clare	Family members transported

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
BURNS Catharine	<i>Blackfriar</i>	1851	1850	Limerick	Tried with Mary Burns <i>Blackfriar</i>
BURNS Mary	<i>Phoebe</i>	1845	1844	Limerick	Tried with 2 men: set fire to Lord Dunraven's stables
BURNS Mary (pn: BROWN)	<i>Blackfriar</i>	1851	1850	Limerick	Tried with Catharine 'Byrne' on board
BUSHE Mary	<i>John William Dare</i>	1852	1851	Cork	
BUTLER Bridget	<i>Australasia</i>	1849	1849	Clare	MTBT. Died on board. Tried with daughter Ann Corry
BUTLER Margaret	<i>Earl Grey</i>	1850	1849	Tipperary	PTBT. Tried with Alice Collins, Johanna Connolly, Ellen, Fleming & Margaret Leggitt (mother, Mary, a deliberate arsonist, followed her on <i>Duke of Cornwall</i>)
BYRNE Anne	<i>Lord Auckland (3)</i>	1849	1848	Kildare	
BYRNE Catherine	<i>John William Dare</i>	1852	1851	Wexford	MTBT. Tried with Catharine Beames. To get into gaol (newspaper)
BYRNE Margaret	<i>Earl Grey</i>	1850	1849	Carlow	TBT (petition)
BYRNE Mary	<i>Earl Grey</i>	1850	1849	Wicklow	
BYRNE Mary 2 nd	<i>Blackfriar</i>	1851	1850	Wexford	
CALLAGHAN Ellen	<i>Duke of Cornwall</i>	1850	1850	Cork	
CAMPBELL Margaret	<i>Blackfriar</i>	1851	1850	Clare	
CARBERY Mary	<i>Blackfriar</i>	1851	1850	King's Co.	
CARROLL Margaret	<i>Martin Luther</i>	1852	1851	Tipperary	
CARTON Ann	<i>Earl Grey</i>	1850	1849	Wexford	
CASHIN Catherine	<i>Martin Luther</i>	1852	1851	Cork	TBT
CHICKLEY Susan	<i>Australasia</i>	1849	1849	Cork	TBT
CLEARY Bridget	<i>John William Dare</i>	1852	1851	Tipperary	
COGHLAN Elizabeth	<i>Maria (2)</i>	1849	1848	Cork	TBT. Tried with Mary Donovan 3 rd
COLLINS Alice	<i>Earl Grey</i>	1850	1849	Tipperary	PTBT. Tried with Margaret Butler, Johanna Connolly, Ellen, Fleming & Margaret Leggitt. (Husband Denis Collins transported per <i>Hyderabad (2)</i> 1849)
COLLINS Margaret	<i>John William Dare</i>	1852	1851	Tipperary	
COLLISTER Maria	<i>Earl Grey</i>	1850	1849	Wexford	TBT. Transported with Celia Kavanagh
CONNELLY Honora	<i>Phoebe</i>	1845	1844	Galway	'I was living with my prosecutor – he wanted to get rid of me and said that I set fire to a cabin'
CONNELL Margaret	<i>Australasia</i>	1849	1849	Cork	Tried with Margaret Cronin & Honora McCarthy

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
CONNOLLY Johanna	<i>Earl Grey</i>	1850	1849	Tipperary	PTBT. Tried with Margaret Butler, Alice Collins, Ellen Fleming & Margaret Leggitt
CONNOR Ellen	<i>Maria (2)</i>	1849	1848	Cork	TBT
CONNORS alias DONOVAN Mary 1 st	<i>Earl Grey</i>	1850	1849	Cork	
CONNORS Catherine	<i>Lord Auckland (3)</i>	1849	1848	Clare	TBT. Tried with Hickey
CONNORS Margaret	<i>Blackfriar</i>	1851	1850	Wexford	
CONNORS Margaret 1 ^a	<i>John William Dare</i>	1852	1851	Clare	
CONNORS Winifred	<i>John William Dare</i>	1852	1851	Galway	
CONWAY Bridget	<i>John William Dare</i>	1852	1851	Tipperary	
CONWAY Catharine	<i>Blackfriar</i>	1851	1850	Kildare	TBT. Tried with Eliza(beth) Quinn
CONWAY Eliza	<i>Waverley (2)</i>	1842	1842		
CONWAY Margaret	<i>Duke of Cornwall</i>	1850	1849	Clare	Tried with sister Mary Conway on board
CONWAY Mary	<i>Duke of Cornwall</i>	1850	1849	Clare	Tried with sister Margaret Conway on board
CORRY Anne	<i>Australasia</i>	1849	1849	Clare	MTBT. Tried with Mary (Bridget) Butler, who died on board
COTTER Ellen	<i>Duke of Cornwall</i>	1850	1849	Cork	[committed arson in VDL]
CRONIN Margaret	<i>Australasia</i>	1849	1849	Cork	Tried with Margaret Connell & Honora McCarthy
CROWLEY Johanna	<i>John William Dare</i>	1852	1850	Waterford	
CROWLEY Mary	<i>Australasia</i>	1849	1849	Waterford	MTBT. Tried with Scanlon & Dooling. 'Strolling mendicant'
CULLINANE Catherine	<i>Lord Auckland (3)</i>	1849	1848	Cork	TBT. Tried with Hickey
CURRAN Mary	<i>Duke of Cornwall</i>	1850	1849	Galway	
DALEY Ann	<i>Australasia</i>	1849	1849	Kildare	TBT (newspaper evidence)
DALEY Honora	<i>Blackfriar</i>	1851	1850	Clare	
DALEY Mary	<i>Blackfriar</i>	1851	1850	Waterford	
DANIEL Mary	<i>Lord Auckland (3)</i>	1849	1848	Tipperary	
DEEGAN Eliza	<i>Martin Luther</i>	1852	1851	Co. Dublin	
DELANEY Bridget	<i>Earl Grey</i>	1850	1849	Carlow	TBT
DELANEY Mary	<i>Blackfriar</i>	1851	1850	Queen's Co.	
DONOVAN Mary 2 nd	<i>Maria (2)</i>	1849	1848	Cork	Tried with Foley, who died on board
DONOVAN Mary 3 rd	<i>Maria (2)</i>	1849	1848	Cork	TBT. Tried with Coghlan
DOOGAN Margaret	<i>Earl Grey</i>	1850	1849	Clare	Revenge. Dispossessed of land. Brought children with her.

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
DOOLING Bridget	<i>Australasia</i>	1849	1849	Waterford	MTBT. Tried with Scanlon & Crowley 'strolling mendicant'
DUGGAN Catherine	<i>Midlothian</i>	1853	1852	Wexford	TBT. 'To better my condition'
DUNLOP Martha	<i>John William Dare</i>	1852	1851	Queen's Co.	
DUNNE Bridget	<i>Blackfriar</i>	1851	1850	Queen's Co.	TBT (newspaper). Tried with Mary Dunne
DUNNE Mary	<i>Blackfriar</i>	1851	1850	Queen's Co.	TBT (newspaper). Tried with Bridget Dunne
DUSEY Mary	<i>Duke of Cornwall</i>	1850	1850	Clare	
DWYER Alice	<i>Earl Grey</i>	1850	1849	Tipperary	
EGAN Judith	<i>John William Dare</i>	1852	1851	Tipperary	
ELGEE Catharine	<i>Blackfriar</i>	1851	1850	King's Co.	
ELLIS Mary	<i>Waverley (2)</i>	1842	1842	Wicklow	
FARRELL Ellen	<i>Lord Auckland (3)</i>	1849	1848	Kildare	TBT 'Burning a house for the purpose of being transported, to be with my sister who is in this colony.'
FARRELL Honor	<i>Blackfriar</i>	1851	1850	Galway	
FARRELL Mary	<i>Maria (2)</i>	1849	1848	Queen's	Revenge. 'Burning my father's house because he would not let me in'. One leg
FIELDING Mary	<i>Midlothian</i>	1853	1852	Wexford	PTBT. Tried with Duggan & Keefe
FITZGERALD Catherine 2 nd	<i>Midlothian</i>	1853	1852	Tipperary	PTBT. Tried with Ellen Ryan
FLANNERY Ann	<i>Tasmania (2)</i>	1845	1845	Roscommon	Father petitioned: served in 6 th Dragoon Guards until 1814 and then in Roscommon Militia
FLEMING Ellen	<i>Earl Grey</i>	1850	1849	Tipperary	TBT. Tried with Margaret Butler, Alice Collins, Johanna Connolly, & Margaret Leggitt
FOLEY Margaret	<i>Blackfriar</i>	1851	1850	Wexford	TBT.
FOLEY Margaret	<i>Maria (2)</i>	1849	1848	Cork	Tried with Mary Donovan 2 nd . Died on board <i>Maria II</i>
FORDE Mary	<i>Duke of Cornwall</i>	1850	1850	Clare	
FRAZER Johanna	<i>Earl Grey</i>	1850	1849	Clare	
GALLAVAN Ellen	<i>Maria (2)</i>	1849	1848	Cork	TBT. 'I was tried with 3 others. We committed the offence for the purpose of being transported'
GEARON Catherine	<i>Duke of Cornwall</i>	1850	1850	Limerick	
GRADY Ann	<i>Duke of Cornwall</i>	1850	1850	Clare	
GREENE Mary	<i>Earl Grey</i>	1850	1849	Roscommon	
GRIFFITH Alice	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Circumstantial. Tried with Bourke, Hennessy, Prendgast, Tobin
GUILFOYLE Eliza	<i>Australasia</i>	1849	1849	Kildare	TBT
HAINES Bridget	<i>Australasia</i>	1849	1848	Cork	

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
HART Mary 1st	<i>Earl Grey</i>	1850	1849	Clare	Sister Sarah Burke per <i>Australasia</i> ; 3 brothers transported
HAURAHAN Ellen	<i>Blackfriar</i>	1851	1850	Tipperary	Tried with sister Mary on board
HAURAHAN Mary	<i>Blackfriar</i>	1851	1850	Tipperary	Tried with Ellen
HAYES Catherine	<i>Martin Luther</i>	1852	1851	Limerick	TBT Husband Michael transported to Sydney
HAYES Ellen	<i>Midlothian</i>	1853	1851	Kilkenny	Brother Michael transported, 'tried with me'
HEHIR Honora	<i>Earl Grey</i>	1850	1849	Clare	Died on board <i>Earl Grey</i>
HENNESSY Mary	<i>Martin Luther</i>	1852	1851	Tipperary	TBT. Tried with Bourke, Griffin, Prendgast, Tobin Circumstantial
HEVEY Maria	<i>Lord Auckland (3)</i>	1849	1848	Kildare	Tried with Mary & Julia Wilson & Rose Murray <i>John Calvin</i>
HICKEY Mary	<i>Lord Auckland (3)</i>	1849	1848	Clare	PTBT. Tried with Connors
HICKEY Mary	<i>Martin Luther</i>	1852	1851	Waterford	
HUSKINSON Winifred	<i>Earl Grey</i>	1850	1849	Kilkenny	
HUSSEY Winifred	<i>Blackfriar</i>	1851	1850	Galway	Sister Biddy 'in this colony a free woman 12 years since'
HYLAND Jane	<i>Lord Auckland (3)</i>	1849	1848	Kildare	PTBT. Tried with Ellen Farrell
JOHNSON Emily	<i>John William Dare</i>	1852	1851	Kildare	Tried with Mary Brown
JONES Eliza	<i>Duke of Cornwall</i>	1850	1850	Kildare	MTBT. Tried with Basley a 'rambling woman'
JULIAN Alice	<i>Martin Luther</i>	1852	1851	Kilkenny	PTBT (newspaper)
KAVANAGH Anastasia	<i>Midlothian</i>	1853	1852	Wexford	(stated her offence to be stealing corn)
KAVANAGH Celia	<i>Earl Grey</i>	1850	1849	Wexford	TBT. Tried with Maria Collister. Brother Thomas 'a convict 3 years since'
KEANY Bridget	<i>John William Dare</i>	1852	1851	Galway	
KEARTING Mary	<i>Martin Luther</i>	1852	1852	Tipperary	
KEATING Alicia or Eliza	<i>Duke of Cornwall</i>	1850	1850	Carlow	Tried with Mary Lee: NAI, CRF 1850 L 9 Petition
KEEFE Mary	<i>Midlothian</i>	1853	1852	Wexford	PTBT, with Fielding & Duggan
KENNEDY Mary	<i>Duke of Cornwall</i>	1850	1850	Wicklow	
KENNY Ann	<i>John William Dare</i>	1852	1851	Galway	NAI, CRF 1851 K 26 Petition
KEOGH Margaret	<i>Midlothian</i>	1853	1852	Wexford	PTBT. Several family members transported
KERWIN Anne	<i>Earl Grey</i>	1850	1849	Wicklow	
KING Mary	<i>Duke of Cornwall</i>	1850	1849	Galway	
KIRWIN Mary	<i>Blackfriar</i>	1851	1850	Cork	MTBT. Tried with Mary Curtin
LAHY Mary	<i>Mexborough</i>	1841	1841		
LANE Honora	<i>Earl Grey</i>	1850	1849	Cork	

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
LAWLOR Napy	<i>Australasia</i>	1849	1849	Kildare	Revenge. 'Burning straw belonging to the father of my child who refused to support the infant'
LEAHY Catharine	<i>Blackfriar</i>	1851	1850	King's Co.	Tried with Ellen Leahy
LEAHY Ellen (proper name; CAREY)	<i>Blackfriar</i>	1851	1850	King's Co.	Tried with Catharine Leahy
LEARY Honor	<i>John William Dare</i>	1852	1851	Tipperary	
LEARY Margaret	<i>Kinnear (2)</i>	1848	1848	Clare	TBT. Tried with Madigan. 'Committed the offence to join my father in this colony ... Father with Hamilton Hume in NSW'
LEARY Mary 3rd	<i>Lord Auckland (3)</i>	1849	1848	Cork	
LEE Mary	<i>Duke of Cornwall</i>	1850	1850	Carlow	Tried with Eliza Keating: NAI, CRF 1850 L19 Petition. 'Brother John came out 3 years since, a prisoner for 10 years'
LEGGITT Margaret	<i>Earl Grey</i>	1850	1849	Tipperary	TBT. Tried with Margaret Butler, Alice Collins, Johanna Connolly, & Ellen Fleming.
LEHANE Mary	<i>Blackfriar</i>	1851	1850	Cork	TBT (newspaper evidence)
LEYNE Mary	<i>Blackfriar</i>	1851	1850	Kerry	TBT (newspaper evidence)
LYNCH Maria	<i>Tasmania (2)</i>	1845	1845	Roscommon	TBT (newspaper evidence)
LYNCH Mary	<i>Blackfriar</i>	1851	1850	Tipperary	
LYONS Ellen or Eleanor	<i>Blackfriar</i>	1851	1850	Wexford	
MADDEN or ROACH Ellen	<i>Lord Auckland (3)</i>	1849	1848	Cork	
MADIGAN Mary	<i>Kinnear (2)</i>	1848	1848	Clare	TBT. Tried with Leary
MAGRATH Anne	<i>Blackfriar</i>	1851	1850	King's Co.	
MAHONEY Anne	<i>Arabian</i>	1847	1846	Limerick	PTBT. Tried with Tuohy
MANNON Catherine	<i>Earl Grey</i>	1850	1849	Kildare	PTBT. Tried with Jane Williams 2 nd
McCARTHY Ann	<i>Martin Luther</i>	1852	1851	Co. Dublin	
McCARTHY Honora	<i>Australasia</i>	1849	1849	Cork	Threatening to burn. Tried with Margaret Connell & Margaret Cronin: NAI, CRF 1854 Misc. 2 Petition
McCARTHY Julia	<i>Maria (2)</i>	1849	1848	Cork	TBT. Tried with 3 others
McCARTHY Mary 1 st	<i>Maria (2)</i>	1849	1848	Cork	TBT. Tried with 3 others
McCONNARK Catherine	<i>Martin Luther</i>	1852	1851	Queen's Co.	
McDONALD Ellen	<i>Duke of Cornwall</i>	1850	1850	Kildare	
McEVOY Catherine	<i>Kinnear (2)</i>	1848	1848	King's Co	
McGARRITY Ann	<i>Phoebe</i>	1845	1844	Tyrone	

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
McGRATH Bridget	<i>Blackfriar</i>	1851	1850	Clare	
McNAMARA Bridget	<i>Martin Luther</i>	1852	1851	Limerick	TBT
McNAMARA Catherine 2 nd	<i>John William Dare</i>	1852	1851	Tipperary	
McNAMARA Ellen	<i>Blackfriar</i>	1851	1850	Clare	(Sister Ann or Hannah per <i>Earl Grey</i>)
McNAMARA Margaret	<i>Martin Luther</i>	1852	1851	Limerick	TBT
McNAMARA Mary 1st	<i>Australasia</i>	1849	1849	Clare	Threatening to burn
MINOGUE Mary	<i>Lord Auckland (3)</i>	1849	1848	Clare	
MOLONY Catharine	<i>Blackfriar</i>	1851	1850	Clare	
MOORHEAD Jane	<i>Blackfriar</i>	1851	1850	Wicklow	
MORRISON Eliza	<i>Earl Grey</i>	1850	1849	Kildare	PTBT. Tried with Mary Nowlan ^{1st} .
MULHAIR Mary	<i>Phoebe</i>	1845	1844	King's Co	
MURPHY Ann	<i>Earl Grey</i>	1850	1849	Cork	
MURPHY Anne 2 nd	<i>Blackfriar</i>	1851	1850	Wexford	TBT (newspaper). Tried with Ann Blake No relations
MURPHY Bridget	<i>Mexborough</i>	1841	1841		
MURPHY Eleanor	<i>John William Dare</i>	1852	1851	Waterford	
MURPHY Ellen	<i>Lord Auckland (3)</i>	1849	1848	Wexford	TBT. 'I committed this offence to follow my mother, Elizabeth BRENNAN, a prisoner in this ship.'
MURPHY Ellen	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Tried with Ellen Brien & Ann Sullivan Circumstantial - newspaper
MURPHY Mary	<i>John William Dare</i>	1852	1851	Tipperary	
MURPHY Mary 2 nd	<i>Maria (2)</i>	1849	1848	Cork	TBT. Tried with 3 others on board
MURRAY Mary	<i>John William Dare</i>	1852	1851	Waterford	
MURRAY Rose	<i>John Calvin</i>	1848	1847	Kildare	Attempted
NEILL Mary 2 nd	<i>Duke of Cornwall</i>	1850	1849	Cork	
NEILL Mary 2 nd	<i>Midlothian</i>	1853	1852	Tipperary	PTBT. Tried with Margaret Bourke
NEILLE Catherine	<i>Duke of Cornwall</i>	1850	1850	Carlow	
NEILLE Mary	<i>John William Dare</i>	1852	1851	Waterford	
NOLAN alias BUTLER Mary	<i>Duke of Cornwall</i>	1850	1850	Tipperary	TBT. To follow her daughter, Peggy Butler, a convict per <i>Earl Grey</i>
NOLAN Catherine	<i>Australasia</i>	1849	1849	Kildare	
NOWLAN Mary 1 st	<i>Earl Grey</i>	1850	1849	Kildare	PTBT (newspaper). Tried with Morrison
O'BRIEN Mary	<i>Martin Luther</i>	1852	1851	Limerick	Brother Michael in Sydney 6 years
O'DONNELL Margaret	<i>Midlothian</i>	1853	1852	Wexford	Life (stated her offence to be house robbery)

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
PAID Mary	<i>Lord Auckland (3)</i>	1849	1848	Waterford	TBT
PERRIN Margaret or Mary	<i>Earl Grey</i>	1850	1849	Carlow	Tried with 2 others (Delaney & Byrne?)
PRENDGAST Mary	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Circumstantial. Tried with Bourke, Griffin, Hennessy, Tobin
PURCELL Margaret	<i>John Calvin</i>	1848	1847	Cork	Revenge. Burning a house, the property of the father of her child. 'I did it because he refused to support my child'.
QUAIN Mary	<i>Duke of Cornwall</i>	1850	1849	Cork	
QUIN Catherine 2 nd	<i>Martin Luther</i>	1852	1851	Limerick	
QUINAN or GUINAN Anne	<i>Martin Luther</i>	1852	1851	King's Co.	
QUINN Anne	<i>Duke of Cornwall</i>	1850	1849	Limerick	
QUINN Elizabeth	<i>Blackfriar</i>	1851	1850	Kildare	PTBT. Tried with Catharine Conway
QUINN Ellen	<i>Blackfriar</i>	1851	1850	Clare	
QUINN Mary	<i>East London</i>	1843			
QUIRK Eleanor	<i>Martin Luther</i>	1852	1851	Kildare	PTBT. Threatened to keep offending
REDMOND Margaret	<i>John William Dare</i>	1852	1851	Wexford	
REEGAN Catherine	<i>John Calvin</i>	1848	1847	Cork	.
REGAN Ellen	<i>Blackfriar</i>	1851	1850	Cork	
REGAN Johanna	<i>Duke of Cornwall</i>	1850	1849	Cork	
REILLY Ann	<i>Lord Auckland (3)</i>	1849	1848	Kildare	
REILLY Mary	<i>Maria (2)</i>	1849	1848	Cork	
ROCHE Eliza	<i>Martin Luther</i>	1852	1851	Limerick	TBT (newspaper). Tried with Johanna Sullivan
ROCHE Mary	<i>Maria (2)</i>	1849	1848	Cork	
ROUGHAN Mary	<i>Blackfriar</i>	1851	1850	Clare	
RYAN Ann	<i>Earl Grey</i>	1850	1849	Kildare	'my mistress gave me £3 and a suit of clothes to commit the offence.'
RYAN Ellen	<i>Midlothian</i>	1853	1852	Tipperary	PTBT. Circumstantial. Tried with Catherine Fitzgerald 2 nd
RYAN Margaret 1st	<i>Blackfriar</i>	1851	1850	Co. Dublin	
RYAN Margaret 2 nd	<i>Midlothian</i>	1853	1851	Tipperary	
RYAN Mary 1st	<i>Earl Grey</i>	1850	1849	Clare	
RYAN Mary 3rd	<i>Earl Grey</i>	1850	1849	Tipperary	
SCANLON Bridget	<i>Australasia</i>	1849	1849	Waterford	MTBT. Tried with Dooling & Crowley 'strolling mendicant'
SHANLEY Mary	<i>John William Dare</i>	1852	1851	King's Co.	
SHAUGHNESSY Margaret	<i>Duke of Cornwall</i>	1850	1850	Limerick	
SMITH Ann	<i>Blackfriar</i>	1851	1850	Kildare	
SMITH Catherine	<i>Waverley (2)</i>	1842	1842	Longford	Tried with family

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
SMITH Mary	<i>Waverley (2)</i>	1842	1842	Longford	Tried with family
STAFFORD Margaret	<i>Lord Auckland (3)</i>	1849	1848	Cork	TBT
STAPLETON Bridget	<i>John William Dare</i>	1852	1851	Kilkenny	
SULLIVAN Ann	<i>Martin Luther</i>	1852	1851	Tipperary	PTBT. Tried with Ellen Brien & Ann Sullivan Circumstantial - newspaper
SULLIVAN Honora 1st	<i>Martin Luther</i>	1852	1851	Cork	Brother John convicted for 15 years
SULLIVAN Johanna	<i>Martin Luther</i>	1852	1851	Limerick	TBT (newspaper). Tried with Eliza Roche
SULLIVAN Mary	<i>Maria (2)</i>	1849	1848	Cork	
SULLIVAN Mary 1st	<i>Lord Auckland (3)</i>	1849	1848	Cork	TBT.
SULLON or SUTTON Rebecca	<i>Blackfriar</i>	1851	1850	Wicklow	
SUPPLE Bridget	<i>Midlothian</i>	1853	1852	Waterford	(heard her husband was dead)
SWEENEY Catherine	<i>Maria (2)</i>	1849	1848	Cork	TBT. Burning straw 'designedly to be sent to Van Diemen's Land'
THOMPSON Ann	<i>John William Dare</i>	1852	1851	Queen's Co.	
TOBIN Alice	<i>Martin Luther</i>	1852	1851	Tipperary	TBT. Circumstantial. Tried with Bourke, Griffin, Hennessy, Prendgast
TUOHY Ann	<i>Arabian</i>	1847	1846	Limerick	TBT 'I was drunk at the time. I did it to get transported'
VALANCE Mary	<i>Duke of Cornwall</i>	1850	1850	Limerick	
WALSH Ellen	<i>Blackfriar</i>	1851	1850	Limerick	
WALSH Johanna	<i>Maria (2)</i>	1849	1848	Cork	PTBT. Tried with Gallavan, Julia & Mary McCarthy & Mary Donovan 3 rd
WALSH Julia	<i>John Calvin</i>	1848	1847	Kildare	Attempted. Tried with Mary Walsh 2 nd
WALSH Margaret	<i>Australasia</i>	1849	1849	Wexford	
WALSH Margaret 2 nd	<i>Blackfriar</i>	1851	1850	Kildare	
WALSH Mary 1st	<i>John Calvin</i>	1848	1847	Cork	
WALSH Mary 2 nd	<i>John Calvin</i>	1848	1847	Kildare	Attempted. Tried with Julia Walsh
WHELAN Anne	<i>Blackfriar</i>	1851	1850	Carlow	NAI, CRF 1850 W21 Petition
WHELAN Maria	<i>Earl Grey</i>	1850	1849	Cork	
WILLIAMS Jane 2nd	<i>Earl Grey</i>	1850	1849	Kildare	TBT. Tried with Mannon
WILLIAMS Mary Ann	<i>John William Dare</i>	1852	1851	Galway	PTBT (newspaper). Immediately confessed
WISEMAN Ellen	<i>Earl Grey</i>	1850	1849	Wexford	TBT

Appendix Two: Irish Female Arsonists Left Behind

Name of Arsonist	Trial	Trial	Offence	Sentence	Remarks
BURKE Ellen	1851	Wicklow		7 years	NAI, GPO, TR 11 p. 73
CONNORS Bridget	1849	Clare.		7 years	TR 9 p. 10
CORNERFORD Bridget	1853	Wicklow	arson	10 years	TR 13 p. 246 Ordered to be discharged 24 June 1858.
DALTON Eleanor	1852	Kilkenny	arson	15 years	TR 12 p. 224
DILLANE Catherine	1851	Clare	arson	10 years	TR 11 p. 9F
DWYER Mary	1850	Cork	arson	15	NAI, Prisons 1/9/4 No. 2602: admitted to Grangegorman Jan 1851, sent to Cork Depot October 1854
FARRELL Mary Anne	1852	Kildare	arson	7 years	Convict ordered to be discharged 3 January 1857.
HARRIS Bridget	1848	Cork.	arson	15 years	TR 8 p. 274
HAYES Mary	1853	Dublin.	arson	10 years	TR 13 p. 180
HUTCHINSON Ellen	1852	Limerick.		15 years	TR 12 p. 232
KEATING Bridget	1850	Waterford		15 years	TR 10 p. 383. See Bridget BRYAN <i>Blackfriar</i> 1851 and <i>Waterford Mail</i> 13 July 1850 p.2 col.4 – trial of Bridget KEATING and Bridget BRYAN.
KEIFE Bridget	1848		arson	7 years	TR 8 p. 274
KELLY Kitty alias McDONEL	1850	Mayo		15 years	TR 10 p. 390. Ship <i>Duke of Cornwall</i> , but no record of arrival.
KERRIGAN Mary	1852	Galway.	arson	death	TR 12 p. 213
KEYS Bridget	1852	Wexford.	arson	10 years	Convict ordered to be discharged 7 July 1858. GG – free pardon. TR 12 p. 274
KIELY Mary	1848	Cork	arson	15 years	Prisons 1/9/4 No. 1526 p.153
KILLEEN Elizabeth	1852	Kildare	arson	7 years	Ordered to be discharged 8 July 1856. James KILLEEN aged 15 tried same date and place; ordered to be discharged on 20 May 1858 (Also see <i>Leinster Express</i> 10 June 1852 p.2 col.5; 3 July 1852 p.3 col.1. NAI, GPO TR 12 p. 222; NAI, GPO TR 12 p.71
MAHER Bridget	1844	King's	arson	15 years	TR 5 p. 269
MINAHAN Mary	1848	Waterford	arson	14 years	Sent back to County Gaol on 5 October 1848. Tried with deliberate offender Mary Paid <i>Lord Auckland</i> 1849 GPO, Prisons 1/9/4 No.1416
MOORE Honora	1849	Waterford	arson	15 years	NAI, GPO TR 9 p. 76 Prisons 1/9/4 No.1799
MUHE Bridget	1844	Queen's.	arson	15 years	NAI, GPO TR 5 p. 299
MURRAY Mary	1857	Wicklow.	arson	15 years	NAI, GPO TR 15 p. 281

Name of Arsonist	Trial	Trial	Offence	Sentence	Remarks
REILLY Bridget	1852	Wexford.		10 years	Ordered to be discharged on 2 June 1858. NAI, GPO TR 12 p. 274
RIORDAN Anne	1849	Wicklow	attempt of arson	7 years	Hannah: 161 TR9 p. 84 F
RYAN Mary	1852	Wexford.	arson	10 years	Convict ordered to be discharged 2 June 1858. several NAI, GPO TR 12 p. 274
SULLIVAN Catherine	1852	Kilkenny.	arson	15 years	NAI, GPO TR 12 p. 224
SULLIVAN Mary (1)	1848	Cork.	arson		Convict detained at Grangegorman Gaol, County Dublin. ? <i>Maria (2)</i> 1849 – may be mixed up with Mary SULLIVAN <i>Lord Auckland</i> 1849. NAI, GPO TR8 p.274; Prisons 1/9/4 No. 1319 pp.133-134
SULLIVAN Mary (2)	1848	Cork.	arson	15 years	p.197
WALSH Mary	1852	Limerick.		10 years	Ordered to be discharged 9 August 1856 several TR12 p.232
WHITE Bridget	1852	Wexford.	arson	7 years	NAI, GPO TR12 p.274
WOODS Mary	1850	Wicklow.	arson	10 years	To Grangegorman Sept 1850, with child (died May 1851), sent to D [?] 2 Aug 1851 NAI, GPO TR 10 p.390; Prisons 1/9/4 pp.241-242

Appendix Three: Male Irish Arsonists

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
BURKE Thomas	<i>Elizabeth & Henry</i>	1845	1844	Meath	
CASEY John	<i>Maitland</i>	1844	1839	Longford	
CLINTON James	<i>Prince Regent</i>	1842	1841	Meath	
CLUNE Michael	<i>Cadet</i>	1844	1843	Clare	NAI, CRF 1843 C62 Death commuted to 14 years; assaulting habitation, arson
COLLINS Michael	<i>Maitland</i>	1844	1839	Limerick	
CONNELL James	<i>Elizabeth & Henry</i>	1845	1844	Tipperary	executed arson VDL
CONNELL Pat	<i>Navarino</i>	1843	1842	Meath	
CONNOLLY Pat	<i>Lord Auckland (4)</i>	1853	1850	Galway	
CUMMINS Tim	<i>Hyderabad (2)</i>	1849	1847	Cork	
CUNNINGHAM James	<i>Rodney (3)</i>	1853	1849	Galway	
DILLANE Edward	<i>Lord Dalhousie</i>	1852	1849	Limerick	
DILLANE John	<i>Lord Dalhousie</i>	1852	1849	Limerick	
DILLANE Tim	<i>Lord Dalhousie</i>	1852	1849	Limerick	
DREW Robert	<i>Hyderabad (3)</i>	1850	1847	Tipperary	
EGAN John	<i>Maitland</i>	1844	1839	Longford	
FARRELLY Bryan	<i>Constant</i>	1843	1843	Cavan	NAI, CRF 1843 F7
FEAGAN Pat	<i>North Briton</i>	1843	1842	Cavan	
FOLEY Jeremiah	<i>Duke of Richmond</i>	1844	1843	Tipperary	
FOLEY Michael	<i>British Sovereign</i>	1841	1840	Westmeath	
FOLEY Pat	<i>Duke of Richmond</i>	1844	1843	Tipperary	
GILLOOLY Dominick	<i>Rodney (3)</i>	1853	1849	Roscommon	
HAYES Timothy	<i>St Vincent</i>	1853	1849	Antrim	
KIERNAN Anthony	<i>Kinnear</i>	1842	1842	Longford	
LOONEY Thomas	<i>Ratcliffe</i>	1845	1844	Limerick	NAI, CRF 1844 L26 Crown witness in murder case
LYNCH David	<i>Maitland</i>	1844	1839	Limerick	
McALLEN Pat [McAleet]?	<i>Samuel Boddington</i>	1846	1845	Dublin City	NAI, CRF 1845 Mc44
McCARTHY Michael	<i>London</i>	1851	1848	Antrim	
McCORMACK Pat	<i>Cadet</i>	1844	1844	Roscommon	
McDOWELL James	<i>North Briton</i>	1843	1842	Cavan	NAI, CRF 1842 Mc44
MELLOW Michael	<i>Duke of Richmond</i>	1844	1843	Dublin City	
MOORE James	<i>Cadet</i>	1844	1844	Queen's Co	NAI, CRF 1850 M43
MULCAHY Tim	<i>Samuel Boddington</i>	1846	1846	Limerick	
MURPHY John	<i>Orator</i>	1843	1843	Kilkenny	
MURPHY John	<i>Rodney (3)</i>	1853	1849	Kildare	
MURPHY Pat	<i>Rodney (3)</i>	1853	1849	Kerry	
NAUGHTON Thomas	<i>London</i>	1851	1849	Galway	
NEAL Maurice	<i>Tory</i>	1847	1846	Tipperary	
O'REGAN James	<i>Elizabeth & Henry</i>	1845	1844	Limerick	
REYNOLDS James	<i>Maitland</i>	1844	1839	Longford	
RIORDAN Thomas	<i>London</i>	1851	1848	Tipperary	
ROGAN Charles	<i>Minerva</i>	1818	1817	Down	
ROGAN Peter	<i>Minerva</i>	1818	1817	Down	

Name of Arsonist	Ship	Arrival	Trial	Trial Place	Remarks
SIMPSON James	<i>Blenheim</i>	1851	1849	Antrim	
SMITH Owen	<i>Kinnear</i>	1842	1842	Longford	NAI, CRF 1842 S20
SMITH Peter	<i>Kinnear</i>	1842	1842	Longford	
SMITH Thomas	<i>Kinnear</i>	1842	1842	Longford	
STACK Pat	<i>Lord Dalhousie</i>	1852	1849	Limerick	
SULLIVAN Daniel	<i>Lord Dalhousie</i>	1852	1849	Cork	
TOBIN Thomas	<i>Duke of Richmond</i>	1844	1843	Clare	NAI, CRF 1843 T9



Appendix Four: No record of permission to marry

Name	Ship & Year of Arrival	Comments
Maria Lynch	<i>Tasmania</i> (2) 1845	
Jane Hyland	<i>Lord Auckland</i> (3) 1849	
Ellen Gallavan	<i>Maria II</i> 1849 *	
Julia McCarthy	<i>Maria II</i> 1849	
Mary Crowley	<i>Australasia</i> 1849	
Bridget Dooling	<i>Australasia</i> 1849	
Eliza Guilfoyle	<i>Australasia</i> 1849	may have married as Eliza Warren 1859 Bothwell
Bridget Scanlon	<i>Australasia</i> 1849	.
Alice Collins	<i>Earl Grey</i> 1850	reunited with husband in colony
Mary Nolan	<i>Duke of Cornwall</i> 1840	
Jane Allen	<i>Blackfriar</i> 1851	
Margaret Lehane	<i>Blackfriar</i> 1851	
Catherine Byrne	<i>John William Dare</i> 1852	

Appendix Five: No record of marriage

Name	Ship & Year of Arrival	Comments
Maria Lynch	<i>Tasmania</i> (2) 1845	
Mary Hickey	<i>Lord Auckland</i> (3) 1849	
Ellen Gallavan	<i>Maria</i> (2) 1849	
Eliza Guilfoyle	<i>Australasia</i> 1849	may have married as Eliza Warren
Alice Collins	<i>Earl Grey</i> 1850	reunited with husband
Eliza Morrison	<i>Earl Grey</i> 1850	
Jane Williams 2 nd	<i>Earl Grey</i> 1850	
Mary Nolan	<i>Duke of Cornwall</i> 1850	
Jane Allen	<i>Blackfriar</i> 1851	
Margaret Lehane	<i>Blackfriar</i> 1851	
Mary Hennessy	<i>Martin Luther</i> 1852	relationship with Wm Birch

Appendix Six: Children of deliberate arsonists

Ann Tuohy	<i>Arabian</i> 1847	
Tuohy	1847	Ross FF
Henry Tuohy	1852	
Ann Mahoney	<i>Arabian</i> 1847	
male Mahoney stillborn	1848	Cascade FF
Mary Mahoney	1851	Launceston
Ann Mahoney	<i>Arabian</i> 1847	William Bishop
William Bishop	c1854	(Launceston)
Robert Bishop	1855	(Launceston)
William Henry Bishop	1857	(Launceston)
John Bishop	1859	(Launceston)
Joseph Bishop	1862 (twin)	(Launceston)
Alfred Bishop	1862 (twin)	(Launceston)
Margaret Leary	<i>Kinnear</i> 1848	James Nicholls
male Nicholls	1850	Hobart
male Nicholls	1853	Hobart
female Nichols	1854	Hobart
male Nicols	1857	Hobart
John Nicols	1859	
George Nicols	1861	Hobart
Mary Madigan	<i>Kinnear</i> 1848	William Hutchins
William Hutchins	1852	Launceston
Latitia Farris Hutchins	1854	Port Sorell
Sarah Ferris Hutchins	1856	Launceston

Alfred Ferris Hutchins	1858	Port Sorell
Henry Ferris Hutchins	1860	
Theresa Ann Ferris Hutchins	1862	Port Sorell
Mary Eliza Ferris Hutchins	1864	Port Sorell
George Chas Ferris Hutchins	1866	Port Sorell
Mary Donovan	<i>Maria II</i> 1849	John Millar
Thomas Miller	1853	Bothwell
John Miller	1855	Bothwell
Ellen Miller	1858	Bothwell
James Miller	1860	Bothwell
Rebecca Miller	1861	Bothwell
George Miller	1864	Bothwell
William Miller	1867	Bothwell
Thomas Miller	1869	Bothwell
Mary McCarthy	<i>Maria II</i> 1849	John Rogers
Mary Rogers	c1851	
Catherine Rogers	1853	Hobart
Thomas Rogers	1855	Hobart
John Rogers	1863	Bombala NSW
Henry Rogers	1865	Bombala NSW
Catherine Rogers	1867	Bombala NSW
Catherine Sweeney	<i>Kinnear</i> 1848	John Hollington
Catherine 'Harrington'	1852	Hobart
James Joseph Hollinton	1853	Hobart
John Joseph David Hollinton	1857	Hobart
Henry Hollington	1858	Hobart

William George Hollinton	1859	Launceston
Elizabeth Hollinton	1861	Launceston
George Hollington	1863	Launceston
Catherine Cullinane	Lord Auckland 1849	William Stroud
William Stroud	1855	Launceston
John Stroud	1860	Longford
Ellen Farrell	Lord Auckland 1849	
Maria Farrell	1851	Cascade FF
William Farrell	1853	Hobart
Ellen Farrell	Lord Auckland 1849	William Watson
Maria Watson	1855	Hobart
Sarah Ann Watson	1858	Oatlands
Female Watson	1860	Oatlands
Ellen Watson	1863	Oatlands
Jane Hyland	Lord Auckland 1849	
Harriet Hyland	1850	Ross FF
Ellen Murphy	Lord Auckland 1849	David Dickenson
Margaret Dickenson	1852	Hobart
James Dickenson	1854	Hobart
David 'Dickon'	1856	Hobart
Male Dickinson	1860	Hobart
Elizabeth Charlotte Dickenson	1865	Hobart
Mary Sullivan 1st	Lord Auckland 1849	Samuel Thickers
Richard Thickins	1852	Hobart
male Thickins	1857	Hobart
male Thickers	1859	Hobart

male Thickens	1861	Hobart
Lucy Ellen Thickins	1864	Hobart
Elizabeth Coghlan	<i>Maria II 1849</i>	
Julia Coghlan	1851	H of C Hobart
Elizabeth Coghlan	<i>Maria II 1849</i>	John Hilsley
Ann Hilsley	1854	Hobart
John Hilsley	1856	Hobart
male Hilsley	1858	Kingston
Ellen Connor	<i>Maria II 1849</i>	George Raymond
female Raymond	1853	New Norfolk
Edwin Charles Raymond	1854	New Norfolk
Jane Raymond	1855	New Norfolk
Louisa Raymond	1857	New Norfolk
Kate Raymond	1860	New Norfolk
Susan Chickley	<i>Maria II 1849</i>	Hugh Fairley
Sarah Chickley	1853	Hobart
Edward Fairley	1855	Richmond
Charles Fairley	1856	Richmond
Ann Corry	<i>Australasia 1849</i>	Bernard Gallagher
Bernard Gallagher	1853	Spring Bay
John 'Galaha'	1855	Richmond
Michael Gallagher	1857	Glamorgan
James Gallagher	1859	Glamorgan
Bridget Gallagher	1861	Glamorgan
Ann Daly	<i>Australasia 1849</i>	William Cowley
John Cowley	1853?	Morven

Emily Cowley	1855	Morven
Mary Ann Cowley	1857	Morven
Arthur Archibald Cowley	1868	Morven
Bridget Doolan	<i>Australasia</i> 1849	Murphy
Agnes Doolan	1851	Hobart
Bridget Doolan	<i>Australasia</i> 1849	Michael alias Murphy Dawley James
Charles Murphy	c1853	
John Murphy	c1859	
Rachel 'Dolley' or Murphy	1861	
Bridget Doolan	<i>Australasia</i> 1849	John Sullivan alias Kargeeg
Mary Ann Sullivan	1866	Hobart
Daniel Sullivan	1868	Hobart
Sarah Jane Sullivan	1870	Hobart
Eliza Guilfoyle	<i>Australasia</i> 1849	
Theresa Guilfoyle	1852	Cascade FF
Eliza Guilfoyle	<i>Australasia</i> 1849	[William Green]
James Green	1859	Bothwell
Elizabeth Green	1865	Oatlands
William Henry Green	1868	Spring Bay
Bridget Scanlon	<i>Australasia</i> 1849	
Margaret Scanlon	1851	Hobart
female Scanlon	1853	Hobart
Bridget Scanlon	<i>Australasia</i> 1849	Cooper
George Alexander Cooper	c1856	
Bridget Maria Cooper	1857	Glamorgan

Frederick William Cooper	1859	Glamorgan
Francis Cooper	1861	Fingal
Anna Maria Cooper	1863	(bp Triabunna)
Edmund Cooper	1865	Glamorgan
William Henry Cooper	1867	Glamorgan
John Ashby Cooper	1872	Glamorgan
Margaret Butler	<i>Earl Grey 1849</i>	
Michael Butler	1852	Ross FF
Alice Collins	<i>Earl Grey 1849</i>	Denis Collins
Margaret Collins	1856	Westbury
Ann Jane Collins	1860	Deloraine
Allice Collins	1863	Deloraine
Dennis Collins	1864	Deloraine
Michael James Collins	1869	Deloraine
Johanna Connolly	<i>Earl Grey 1849</i>	John Fulford
John Thomas Fulford	1853	Hobart
Esther Fulford	1854	Hobart
Apollos Fulford	1855	Richmond
Ethelia Fulford	1857	Richmond
John Fulford	1860	Richmond
Joseph Fulford	1867	Richmond
Ellen Fleming	<i>Earl Grey 1849</i>	Richard Styles
Edward Styles	1853	Fingal
Mary Ann Styles	1854	Fingal
Celia Kavanagh	<i>Earl Grey 1849</i>	
Susan Cavanagh	1853	FHC Hobart

Celia Kavanagh	Earl Grey 1849	Patrick Hurley
Mary Hurley	1855	Bothwell
Ellen Maria Hurley	1857	Bothwell
Catherine Hurley	1859	Bothwell
Thomas Charles Hurley	1861	Sale VIC
William Henry Hurley	1864	Sale VIC
Richard (George) Hurley	1866	Sale VIC
Cecelia Hurley	1868	Sale VIC
Margaret Helen Hurley	1872	Sale VIC
Margaret Leggett	Earl Grey 1849	
Mary Leggitt	1852	FHC Hobart
Margaret Leggett	Earl Grey 1849	William Platt
male Platt	1854	Hobart
Catherine Mannon	Earl Grey 1849	George Leathley
David 'Leathley'	1853	Hobart
Anastasia Leathley	1855	Hobart
Sarah Leathley	1856	Hobart
male (George) Leathley	1857	Hobart
John Leathley	1859	Hobart
Catherine Leathley	1862	Hobart
Mary Ann Nowlan	Earl Grey 1849	Thomas Patterson
Priscilla Ann Patterson	1852	Hobart
George Andrew Patterson	1854	Hobart
John Alfred Patterson	1854	Hobart
Ellen Wiseman	Earl Grey 1849	Reuben Cousins
Elizabeth Cousins	1854	Morven

Sarah Cousins	1856	Westbury
Ellen Agnes Cousins	1858	Westbury
Reuben Cousins	1858	Westbury
James Cousins	1860	Westbury
Mary Ann Cousins	1861	Westbury
William Cousins	1864	Westbury
Maria Cousins	1866	Westbury
Susan Cousins	1869	Westbury
Robert Cousins	1870	Westbury
Agnes Cousins	1872	Westbury
Matthew John Cousins	1875	Westbury
Catherine Conway	Earl Grey 1849	Thomas Poole
Thomas Poole	1855	Hobart
Catherine Conway	Earl Grey 1849	John Hunter
Catherine Hunter	1867	Green Ponds
William Hunter	1869	Green Ponds
Norry Burke	Earl Grey 1849	James Gallagher
Charles Gallagher	1855	Hobart
male Gallagher	1856	Gordon
female Gallagher	1858	Gordon
[Richard] Gallagher	1859	Gordon
female Gallagher	1860	Gordon
female Gallagher	1862	Gordon
male Gallagher	1864	Gordon
female Gallagher	1867	Gordon
Alice Griffith	Earl Grey 1849	William Ryan

Thomas Ryan	1855	Hobart
David Ryan	1857	Hobart
Alice Griffith	Earl Grey 1849	[Henry Doreman]
Mary Elizabeth Doreman	1861	Hobart
Tarindow Clara Dorman	1864	Hobart
Jane Allen	Blackfriar 1851	
stillborn child	1852	Launceston
Catherine Hayes	Earl Grey 1849	
Thomas Hayes	1854	FHC Hobart
Catherine Hayes	Earl Grey 1849	Patrick Handley
Margaret Alicia Handley	1856	Hobart
?Morris Handley	1858	Hobart
?Mary Francis Handley	c1864	Hobart
Anne Murphy 2nd	Blackfriar 1851	
John Murphy	1853	Hobart
Mary Hennessy	Martin Luther 1852	
child	1857	
Mary Hennessy	Martin Luther 1852	[William Birch]
Henry William Birch	1863	Hobart
Emma Birch	1866	Hobart
Mary McNamara	Martin Luther 1852	John James
John James	1856	Huon
Ellen Murphy	Martin Luther 1852	George Williams
Thomas William Williams	1861	Brighton
Mary Prendgast	Martin Luther 1852	Luke Welsh
male Welsh	1854	Hobart

Elizabeth Margaret H Welsh	1856	Huon
Mary Prendgast	<i>Martin Luther 1852</i>	John Perry
female Perry	1857	Franklin
male Perry	1860	Franklin
male Perry	1861	Franklin
male Perry	1863	Franklin
male Perry	1865	Franklin
Johanna Sullivan	<i>Martin Luther 1852</i>	Henry Cheshire
Sarah Ann Cheshire	1857	Hobart
Henry William Cheshire	1858	Hobart
Mary Ann 'Chesshire'	1860	Fingal
William Charles Frederick Cheshire	1863	Fingal
John 'Chesshire'	1865	Fingal
Frederick Chesshire	1867	Fingal
Charles Edward Cheshire	1869	Fingal
Alice Tobin	<i>Martin Luther 1852</i>	William Moy
male Moy	1855	Hobart
William Moy	1856	Hobart
George Arthur Moy	1857	Hobart
Joseph William Moy	1869	Hobart
James Thomas Moy	1860	Oatlands
Jane Ann Moy	1864	Oatlands
Margaret Bourke	<i>Midlothian 1853</i>	James Smith
William Smith		
Jane Smith	c1860	
Eliza Smith		

Louisa Smith	c1866	
Alexander Smith	c1866 (twin)	
Alfred Smith	c1866 (twin)	
Catherine Duggan	Midlothian 1853	Patrick Lynch
John Lynch	1854	New Norfolk
Catherine Lynch	1855	New Norfolk
Mary Keefe	Midlothian 1853	James Askey
William Askey	1855	Bridgewater
Mary Ann Askey	1857	Bridgewater
Hannah Askey	1859	Bridgewater
Henry Askey	1861	Bridgewater
Samuel Askey	1863	Bridgewater
Eliza Askey	1865	Bridgewater
Emma Askey	1870	bp. Hobart
Rebecca Florence Askey	1874	Bridgewater
Margaret Keogh	Midlothian 1853	James Wallace
Anne Eliza Wallace	1855	
John Martin Wallace	1857	
Agnes Wallace	1860	
Margaret Wallace	1862	
Mary Jane Wallace	1865	Launceston
James William Wallace	1867	
Maria Mardock Wallace	1871	
Gore Arkin Wallace	1873	
Ellen Ryan	Midlothian 1853	John Dwyer
Anthony Dwyer	1871	VIC

Appendix Seven: No children located

Name	Ship & Year of Arrival	Comments
Maria Lynch	<i>Tasmania</i> (2) 1845	died 1846
Catherine Connors	<i>Lord Auckland</i> (3) 1849	may have had daughter Annie
Ellen Gallavan	<i>Maria</i> (2) 1849	died 1849
Mary Murphy 2 nd	<i>Maria</i> (2) 1849	
Johanna Walsh	<i>Maria</i> (2) 1849	
Maria Collister	<i>Earl Grey</i> 1850	may have had child
Eliza Morrison	<i>Earl Grey</i> 1850	died 1855
Jane Williams 2 nd	<i>Earl Grey</i> 1850	died 1850
Mary Nolan als Butler	<i>Duke of Cornwall</i> 1850	aged 60 on arrival
Ann Blake	<i>Blackfriar</i> 1851	died 1855
Bridget Dunne	<i>Blackfriar</i> 1851	
Mary Dunne	<i>Blackfriar</i> 1851	
Margaret Lehane	<i>Blackfriar</i> 1851	died 1854
Rosanna Berry	<i>Martin Luther</i> 1852	
Catherine Cashin	<i>Martin Luther</i> 1852	
Bridget McNamara	<i>Martin Luther</i> 1852	
Eleanor Quirk	<i>Martin Luther</i> 1852	
Mary Fielding	<i>Midlothian</i> 1853	

Appendix Eight: 'delivered of an illegitimate child'

Name		Comments
Ann Mahoney	<i>Arabian 1847</i>	
male Mahoney	1848 stillborn	Cascade FF
Mary Mahoney	1851 d.1851	Launceston
Ann Tuohy	<i>Arabian 1847</i>	
Tuohy	1847 stillborn	Ross FF
Henry Tuohy	1852 d.1852	Launceston FF
Ellen Farrell	<i>Lord Auckland 1849</i>	
Maria Farrell	1851 d.1852	Cascade FF
William Farrell	1853	Hobart
Jane Hyland	<i>Lord Auckland 1849</i>	
Harriet Hyland	1850	Ross FF
Elizabeth Coghlan	<i>Maria II 1849</i>	
Julia Coghlan	1851 d.1852	Hobart
Eliza Guilfoyle	<i>Australasia 1849</i>	
Theresa Gilfoyle	1852	Cascade FF
Margaret Butler	<i>Earl Grey 1850</i>	
Michael Butler	1852	Ross
Celia Kavanagh	<i>Earl Grey 1850</i>	
Susan Cavanagh	1853 d.1853	FHC Hobart
Margaret Leggitt	<i>Earl Grey 1850</i>	
Mary	1852 d.1853	FHC Hobart
Jane Allen	<i>Blackfriar 1851</i>	
child	1852 stillborn	Launceston FF

Anne Murphy 2nd	<i>Blackfriar 1851</i>	
John Murphy	1853 d.1854	FHC Hobart
Catherine Hayes	<i>Martin Luther 1852</i>	
Thomas Hayes	1854 d.1854	FHC Hobart
Mary Hennessy	<i>Martin Luther 1852</i>	
child	1857	Hobart



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Petition of Ann Flannery

Petition of Pat 'McAleet' [also 'McAllen']

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Mary Jane Robinson

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